

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

Executive summary

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International Commission of Jurists
Rue des Buis 3
P.O. Box 1740
1211 Geneva 1, Switzerland



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I. The report's findings

Gender-based violence (GBV) in Tajikistan remains widespread, with domestic violence continuing to represent the most pervasive and normalized form of abuse. Despite certain welcome policy initiatives and legislative and administrative measures undertaken by the government in recent years, the response remains inadequate both in scope and in practice. Existing measures have neither provided sufficient protection or access to justice for survivors nor been effective for purposes of prevention. Neither have they been aimed at effectively addressing the root causes of violence. While some progress has been achieved, particularly through the adoption of the Law on the Prevention of Domestic Violence and the introduction of protective orders, these efforts fall far short of offering a comprehensive and survivor-centred framework. With a view to addressing these concerns, the International Commission of Jurists (ICJ) conducted a mission to Tajikistan to assess the barriers women face in accessing justice in GBV cases.¹ Drawing on research and mission findings, this report identifies key shortcomings in the legal framework and judicial practices, highlights the gaps between Tajikistan's international obligations and their domestic implementation, and sets out recommendations to strengthen access to justice for women survivors of GBV.

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 Sexual violence continues to be defined through outdated, force-based provisions that do not place consent at the centre of the law, exclude coercive control, and leave marital rape outside the scope of criminal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

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

Institutional responses to GBV remain inconsistent and flawed. Protective orders exist in law, but enforcement is weak, and police officers, prosecutors and judges often lack training in gender-sensitive approaches. Survivors of GBV frequently report being blamed, pressured to reconcile with abusers, or discouraged from pursuing formal complaints. The policies and practices of the justice system itself often serve to re-traumatize women by requiring invasive procedures, public testimony, or investigative experiments that disregard their dignity and well-being. Law enforcement institutions lack the capacity,

¹ICJ. 2024. *Tajikistan: ICJ concludes mission on access to justice for women survivors of gender-based violence*. <https://www.icj.org/tajikistan-icj-concludes-mission-on-access-to-justice-for-women-survivors-of-gender-based-violence/>.

resources, and officials usually lack the will to proactively investigate cases, leaving survivors to shoulder the burden of proof. Where cases reach the courts, they are often settled informally or dismissed due to lack of evidence, perpetuating a cycle of impunity.

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

Access to protection and support services remains very limited. Survivors of GBV are excluded from the categories of persons entitled to free legal aid, which creates a serious imbalance between perpetrators, who often secure representation, and survivors, who are left without adequate legal assistance. The few shelters and psychosocial services that exist are predominantly funded and managed by civil society organizations or international donors, with minimal State contribution. This over-reliance on external actors creates a patchwork system of support that is fragmented, under-resourced, and unevenly distributed, particularly in rural areas.

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

Domestic laws and procedures to give effect to the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), Convention on the Rights of the Child (CRC), and other human rights treaties remain weak, with no clear mechanism to ensure compliance, address the findings of United Nations treaty bodies and other mechanisms, and ensure effective follow-up. Human rights defenders, lawyers, journalists, and civil society organizations whose work is essential for addressing GBV issues face obstacles that impede monitoring, legal assistance, and other engagement, which weakens access to justice for survivors and public oversight.

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

Bearing these conclusions in mind, and with reference to international human rights law and standards, the following recommendations will be directed to the Government of

Tajikistan, Parliament, law enforcement and judicial authorities, and civil society. These recommendations aim to close the legislative and institutional gaps, strengthen survivor-centred protection and support services, and foster the societal change necessary to effectively prevent and respond to GBV.

II. Recommendations

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

Amendments to Administrative Law

- Expand Article 93(1) of the Code of Administrative Offences to include non-intentional acts and intimate partner violence outside formal family relationships, in line with international standards.
- Increase sanctions to ensure penalties are proportionate and effective deterrents.
- Introduce graduated sanctions for repeat violations of Articles 93(1) and 93(2) of the Code of Administrative Offences.
- Amend the Procedural Code on Administrative Offences to reduce the competency of officials to exercise discretion in initiating GBV-related proceedings and require written justifications for refusals, reviewable by a higher authority within a short, defined timeframe
- Reevaluate the use of “educational conversations” as a first response measure to domestic violence to ensure they do not prioritize “reconciliation” over survivor safety.

Amendments to Criminal Law

- Explicitly provide for domestic violence as a specific stand-alone offence in the Criminal Code.
- Provide for criminal liability as a consequence of repeated violations of protective orders.
- Criminalize all forms of forced marriage and cohabitation, including religious or informal arrangements, and effectively enforce this provision.
- Provide expressly for marital rape as a criminal offence, ensuring the provision applies to all forms of unions, not only officially registered marriages.
- Strengthen penalties for coercion-based sexual offences, reflecting psychological harm and power imbalances.
- Ensure that the criminal law provides effective protection against sexual exploitation and abuse of children, including forced or early marriage, while refraining from the criminalisation of consensual, non-exploitative sexual conduct between adolescents of a similar age.
- Introduce a dedicated Criminal Code provision addressing certain forms and expressions of sexual harassment, including in the workplace and public spaces.
- Adopt comprehensive legislation explicitly defining and criminalizing online GBV.
- Reform the definition of rape to adopt a consent-based approach consistent with international human rights law and standards.
- Expand the definition of sexual violence to include all non-consensual sexual acts beyond penile-vaginal penetration.

- Eliminate discriminatory provisions criminalizing consensual same-sex relations.
- Recognize coercion and abuse of power or trust as invalidating consent.
- Expand the legal definition of coercion to include emotional manipulation, family or social pressure, and isolation.
- Amend the Criminal Code and the Code of Criminal Procedure to ensure all forms of GBV, including those causing minor physical harm, are subject to State-led prosecution.
- Explicitly recognize psychological violence and coercive control as criminal offences, with forensic and psychological evaluation protocols that should be accessible at no cost.
- Amend the Criminal Code to allow mitigating circumstances for women who kill or injure their husbands or other family members after enduring years of gender-based or sexual violence.

Amendments to Criminal Procedure

- Ensure *ex officio* investigation and prosecution of GBV offences irrespective of complaint withdrawal, with safeguards against coercion.
- Remove procedural requirements obliging survivors to provide preliminary evidence, formalities, or witness lists at the complaint stage.
- Recognize expert psychological evidence on trauma and coercive control; adopt national standards for sexual-assault evidence.
- Introduce trauma-sensitive interviewing, protective measures during testimony, and allow more flexible evidentiary rules in GBV cases, including removing rigid requirements for specific forensic injury reports, while ensuring strict confidentiality.
- Waive court fees and medical certification costs in all cases involving GBV, sexual harassment, or other forms of discrimination and abuse.
- Introduce internal disciplinary consequences for failures to register complaints, unlawful pressure to “reconcile”, or secondary victimization.
- Clarify access pathways so survivors can seek legal aid independently, without requiring judicial or investigative referral.
- Prohibit forced mediation or “reconciliation” in GBV cases.

Broader legal reforms

- Expand the definition of domestic violence to include violence in non-marital and non-cohabiting intimate relationships.
- Remove the requirement of intent from the definition of domestic violence to cover harm resulting from reckless or negligent conduct, while allowing for differing levels of sanction.
- Include comprehensive definitions of physical, psychological, sexual, and economic violence in national law.
- Amend harassment and sexual harassment definitions to center on lack of consent rather than intent.

- Broaden workplace harassment to include single incidents as well as horizontal harassment (between colleagues of equal status) and harassment perpetrated by subordinates.
- Broaden the scope of protective orders to include no-contact and distance requirements.
- Include restrictions on perpetrators' use of shared property and contact with children.
- Revise provisions recommending survivors' "timely return" home to avoid pressuring re-entry into unsafe environments.
- Enact legislation allowing emergency barring orders in cases of imminent danger.
- Allow survivors to extend protective orders beyond 60 days, based on risk assessment.
- Amend the Family Code to eliminate all exceptions to the minimum marriage age and ensure that marriage is legally permitted only from age 18 for all, without exceptions.
- Require mandatory civil registration of all marriages, including through a legal prohibition on conducting *nikokh* without proof of civil registration.
- Amend the Labour Code to require workplace GBV policies, confidential reporting channels, non-retaliation guarantees; empower the labour inspectorate to investigate and sanction non-compliance.
- Amend the Law on Legal Aid to explicitly include GBV survivors (including children) as eligible for free legal aid.
- Institutionalize corrective and rehabilitative programmes for aggressors to prevent repeat offences.
- Prioritize the allocation of sufficient State budget and resources to prevent and respond to GBV, including funding for justice, law enforcement, shelters, legal aid, and survivor support services.
- Take concrete steps to implement recommendations from *Neither Check nor Balance: The Judiciary in Tajikistan* ICJ mission report.

(ii) Recommendations to Law Enforcement

- Improve monitoring and enforcement of protective orders.
- Consistently enforce laws criminalizing child marriage and polygamy, and sanction those who facilitate or condone these practices.
- Require all officers, especially criminal investigators, to undergo standardized, ongoing GBV training focused on survivor-centred and trauma-informed approaches.
- Enforce the legal requirement that female officers handle cases involving women and girl survivors, particularly in sexual violence cases.
- Improve recruitment and retention of women officers through better working conditions and professional incentives.
- Ensure survivor interviews take place in private, secure settings, conducted only by trained personnel.

- Prohibit the use of investigative re-enactments in sexual violence cases, unless strictly necessary, under evidentiary review and with informed survivor consent.
- Establish multidisciplinary referral systems linking police with healthcare providers, legal aid services, and crisis centres to ensure comprehensive survivor support.
- Prohibit the use of informal “reconciliation methods”, including the involvement of religious figures, especially where they endanger survivor safety or access to justice.
- Prohibit blame-shifting, discriminatory language, and morally charged questioning of survivors in all police interactions.

(iii) Recommendations to Judicial Authorities

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

- Ensure compliance with international obligations, including reopening cases in line with UN Treaty Body decisions on individual communications, through clear procedural guidance.
- Strengthen cooperation between courts, civil society organizations, and State actors to guarantee survivors receive legal, social, and psychological support throughout proceedings.

(iv) Recommendations to the Executive

- Adopt and implement a comprehensive national strategy to eradicate gender stereotypes and patriarchal attitudes towards women and girls, particularly the dominant perception of women's subordinate role in the family and society.
- Adopt and implement a National Strategy and Action Plan on GBV with measurable indicators, a sufficient State-funded budget, and an inter-ministerial coordination mechanism including civil society.
- Ensure that the entire justice system and GBV response services are financed through the State budget, rather than foreign funding only, to guarantee sustainability and accountability.
- Adopt survivor-centred standard operating procedures for the police when handling GBV cases.
- Ensure equal access to free forensic and medical examinations for all survivors of GBV, regardless of police referral.
- Train and deploy female forensic professionals, particularly in rural areas.
- Develop standardized forensic assessment guidelines, consistently applied nationwide, covering both physical and psychological harm.
- Provide mandatory training for forensic, legal, and law enforcement professionals on GBV-sensitive practices.
- Allocate a permanent State budget for shelters, legal aid, and psychosocial services for all GBV survivors, reducing reliance on donors.
- Increase the number of accessible shelters and temporary accommodation facilities to meet the international standards and actual needs of GBV survivors, ensuring at least one family place per 10,000 inhabitants as required by the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Ensure that shelters are distributed across all regions and accessible without requiring identity documents.
- Ensure services (shelters, crisis centres, hotline) are accessible to women with disabilities, HIV-positive women, and other marginalized groups.
- Establish specialized GBV hotlines at the regional level with mandatory incident registration and written reasons for any refusal to register complaints. Secure sustainable funding for the national domestic violence hotline.
- Strengthen coordination among Committee on Women and Family Affairs, healthcare providers, police, and civil society organizations to improve referrals, protection responses, and data collection.
- Expand the network of licensed legal aid lawyers, with incentives for rural deployment.

- Ensure all legal aid providers (State institutions, Bar Association, civil society organizations) receive GBV-sensitive and trauma-informed training, including CEDAW and Istanbul Convention.
- Scale up State-funded legal aid for GBV survivors, especially in administrative and criminal procedures.
- Invest in mentorship, scholarships, and internships for young lawyers, particularly women, in GBV advocacy.
- Expand public legal education for women and marginalized groups through community outreach, media campaigns, and local leaders, with accessible materials in local languages.
- Introduce mandatory human rights and gender equality education in schools from early levels.
- Integrate international human rights law (including the CEDAW) into curricula of law faculties and judicial training programs.
- Translate the CEDAW, the ICCPR, the UNCAT, the CRC and other human rights instruments into Tajik and other local languages where appropriate with the same accuracy as domestic laws.
- Establish a centralized online database of international human rights documents in Tajik and other local languages where appropriate, accessible to professionals and the public.
- Ensure the primacy of international law over national legislation in the field of human rights and gender equality both in law and in practice:
 - Withdraw the declaration to articles 8 and 9 of the Optional Protocol to the CEDAW Convention to allow for the inquiry procedure.
 - Seek to accede to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence as a framework for strengthening legal and institutional responses to GBV.
 - Take concrete steps to implement recommendations from *Neither Check nor Balance: The Judiciary in Tajikistan* ICJ mission report.
 - Guarantee the protection of NGOs, including those addressing women's human rights, ensuring they can operate without interference, access funding, and are safeguarded from harassment or arbitrary actions by the authorities.
 - Protect all stakeholders — including women human rights defenders, journalists, lawyers, judges, and civil society actors — from threats, retaliation, or intimidation for reporting or addressing GBV, including when invoking international law, and ensure they are not subjected to arbitrary arrest, detention, prosecution, or career-related reprisals.

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International
Commission
of Jurists

P.O. Box 1740
Rue des Bains 3
CH 1211 Geneva1
Switzerland

t +41 22 979 38 00

f +41 22 979 38 01

www.icj.org