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**Submission on Tajikistan by Human Rights Watch
to the Committee on Economic, Social and Cultural Rights**

**in Advance of the 67th Session of the Pre-Sessional Working Group**

**August 2020**

Human Rights Watch welcomes the opportunity to contribute to the List of Issues in preparation for the fourth periodic review of the government of Tajikistan’s compliance with the International Covenant on Economic, Social and Cultural Rights (CESCR). It focuses on domestic violence and the protection of students, teachers, and schools during armed conflict.

**Introduction**

Tajikistan’s human rights record continues to deteriorate amid an ongoing crackdown on freedom of expression and the political opposition, as well as the targeting of independent lawyers, journalists, and even the family members of opposition activists abroad. Authorities’ use of torture to obtain confessions remains a serious concern. The government continues to block various websites that host information critical of the government, subject human rights groups to harassment, including a law requiring nongovernmental organizations (NGOs) to register all sources of funding from foreign sources, restricts media freedoms, and has enforced serious restrictions on religious practice. Lesbian, gays, bisexual, and transgender (LGBT) people are subjected to wide-ranging discrimination and homophobia. Domestic violence against women continues to be a serious problem, despite the adoption of a law on domestic violence in 2013 that provides some human rights protections.

**Domestic Violence (Arts. 2, 3, 9, 10, 11, and 12)**

This section focuses on findings of research conducted by Human Rights Watch between July and August 2015 and July and September 2016, and follow-up research between August 2018 and July 2019 on domestic violence in Tajikistan and published in September 2019.[[1]](#footnote-1)

The precise number of women in Tajikistan who experience violence at the hands of a spouse or partner or their relatives, including mothers-in-law, is unknown as the government does not systematically monitor the issue and does not collect relevant data and statistics. But experts, including sociologists, government officials, international researchers, lawyers, and service providers with whom Human Rights Watch spoke in various regions of Tajikistan report that family violence is widespread and remains pervasive in Tajik society, often taking on severe forms and even including murder and incitement to suicide.

*Family Violence Law*

In 2013, following a 10-year advocacy effort by civil society groups, Tajikistan passed its first ever law addressing domestic violence, the Law on the Prevention of Violence in the Family (hereinafter Family Violence Law), which, while making key advances in the protection of women, left critical gaps. The Family Violence Law does not recognize domestic violence as a crime, providing only for administrative liability. The law does not criminalize domestic violence as a standalone offence. Victims seeking prosecution and punishment of the abuser must bring claims under articles of the Tajik Criminal Code that govern assault and similar acts involving force or violence. The law does not define the term “family” and, according to the interpretation of several expert and women’s rights lawyers, leaves women who are divorced or in polygamous, child, or unregistered marriages unprotected.

The CEDAW Committee has detailed these and other critical shortcomings of the Law and the overall state response to domestic violence in its reviews. While praising Tajikistan for its adoption of the law, the CEDAW Committee also outlined several areas of concern in 2013 including women’s lack of awareness of their rights, which particularly affects women in rural and remote areas.[[2]](#footnote-2) The committee stated its concern that “[t]here is no comprehensive strategy to combat all forms of gender-based violence against women and girls,” and called out the “systemic impunity for perpetrators of gender-based violence against women, as illustrated by the low number of prosecutions and convictions, the reports of police complicity, the focus on reconciliation and the failure to protect the confidentiality of victims.” It further noted its concern towards the “inadequate support services for women and girls who are victims of gender-based violence,” the lack of “systematic monitoring of cases of gender-based violence… and… statistical data on such cases.”[[3]](#footnote-3)

The Family Violence Law recognizes the rights of victims to legal, medical, and psychosocial assistance and individual remedies, including registering a case of violence and obtaining protection orders. Furthermore, service providers and civil society activists say that the law’s adoption has raised public awareness about the problem, and that it could be transformative if fully implemented across the country. The government has also worked, with support from international donors and NGOs, to establish Gender-Sensitive Police Units in police stations and Victim Support Rooms in hospitals, designed to make these institutions more accessible to and supportive of victims of family violence.

However, the Family Violence Law has not been adequately implemented. Implementation of the law is hampered by a lack of clear instructions, understanding of the law, and lack of funding and budget allocation for government agencies to fulfill their obligations to implement the law.

The law aims to make it easier for victims of family violence to get protection orders and services. Our research documented that law enforcement officials routinely refuse to take family violence seriously. They often refuse to pursue investigations, issue protection orders, or arrest people who commit domestic violence, even in cases where the violence is severe, including attempted murder, serious physical harm, and repeated marital rape. Lawyers and activists who help survivors file complaints said that, based on their experience, once police are involved in a case, they almost always try to resolve it solely through couples counseling or mediation, aiming to get the abuser to promise future good behavior.[[4]](#footnote-4) They also said that the police often fail to inform survivors about their right to a family protection order or filing a criminal complaint.

*Barriers to Services, Protection, and Justice*

Domestic Violence survivors, service providers, and other advocates interviewed by Human Rights Watch described a range of barriers to seeking services, protection, and justice, including lack of information, unavailability of quality services, insufficient government presence, a shortage of shelters, and lack of legal representation. Survivors also described police failings and negligence to address and respond to family abuse and in some cases complicity in domestic violence. Economic dependence on abusers also prevents many women from reporting family abuse and seeking help.

*Lack of Information and Awareness*

While some Human Rights Watch interviewees stated that awareness of the laws against domestic violence is growing, in part because of the publicity surrounding the law’s adoption, many said that the government needs to put far more effort into raising awareness and providing information. Lack of awareness of women’s rights and persisting patriarchal norms are chief among the impediments to women reporting violence and hinder effective implementation of the Family Violence Law.

Service providers echoed what some survivors told Human Rights Watch: that the Family Violence Law is not welcomed or well understood by large segments of the population, including among some government officials tasked with implementing it.[[5]](#footnote-5) The male dominant culture prevents women, particularly those who live in remote areas, from accessing information about the Family Violence Law, much less reporting the violence they are experiencing.[[6]](#footnote-6)

Experts and survivors of domestic abuse told Human Rights Watch that even where services for survivors do exist, people are often unaware of the available resources.[[7]](#footnote-7)  Several survivors said they reached help through chance encounters, through coincidence, luck, or the kindness of strangers.

*Shortage of Shelters, Inadequate Services*

Human Rights Watch found a critical lack of shelters and other services where survivors of domestic violence can seek accommodation and protection in an emergency. In Tajikistan, there are no government-operated shelters, and the government does not fund, regulate, or monitor private shelters or track capacity or usage.[[8]](#footnote-8) There are a limited number of privately run shelters in Tajikistan and in some cases survivors said they only accommodate short-term stays, which do not provide sufficient protection.

Service providers, lawyers, and activists underlined the urgent need for the Tajik government to establish and fund long-term shelters accessible to victims of domestic violence across the country. The government should also consider making available socially affordable permanent housing for vulnerable segments of the population and reserve certain numbers of units for women subjected to family abuse.

Authorities should also ensure that the services provided through shelters and organizations tasked with implementing the Family Violence Law are comprehensive, appropriate, and based on a victim-focused approach. Our research documented that often staff at shelters and organizations may reinforce the idea that women should remain silent about domestic abuse and advise them not to take their cases to the police. Several staff emphasized that they believed their role was to reconcile husbands and wives in cases of abuse and to do whatever possible to preserve the family unit and actively discourage divorce.[[9]](#footnote-9) Focus on reconciliation can seriously undermine the rights, and the safety, of women who face family abuse.

There is no skilled and professional psychological counseling available for victims of domestic violence. Human Rights Watch was told that ‘counseling’ provided by the staff at women’s resource centers and shelters is primarily aimed at reconciliation and not designed to support women in their own self-determination. The government should ensure access to psychosocial support by qualified counselors for women both in and outside of shelters with a focus on meeting women’s needs and ensuring their well-being.

*Access to Justice*

There are few lawyers in Tajikistan and access to free legal aid is limited. Following 2015 legislative amendments to the law on lawyers, the independence of Tajikistan’s legal profession was restricted, and a number of lawyers were deprived of their legal licenses or excluded in other ways from practicing law. Following the passage of the new law, fewer than 500 are able to practice law for a population of nearly nine million, a ratio of approximately one lawyer per 18,000 inhabitants.[[10]](#footnote-10)

Without adequate legal assistance, survivors of domestic violence may be in the dark about the status of protection order applications and investigations and prosecutions. Survivors also often need legal assistance with civil matters, such as child custody and child support payments, should they decide to leave or divorce the abusive partner.

Our research has documented the stark difference in the experiences of survivors of domestic violence who gained timely access to qualified legal representation and those who were left to navigate law enforcement bodies and courts on their own. In the few cases examined by Human Rights Watch where perpetrators of domestic violence have faced some measure of legal consequences, lawyers were involved in representing the survivor.

*Economic Dependence on Abusers*

Economic dependence keeps many survivors of family violence trapped in relationships with their abusers. Many women have no means of supporting themselves or their children without relying on their abusers. In Tajikistan, there is no safety net for survivors of domestic violence who need financial support.

Mehrangiz M., who has three children, only appealed to the police after her husband had raped and beat her so hard with a shovel that it caused internal bleeding. But rather than pressing for his arrest, she agreed to undergo mediation at a women’s resource center. He was a seasonal migrant in Russia and the breadwinner of the family. He ended up paying a fine, and the criminal charges were dropped, she said. Mehrangiz told Human Rights Watch that she was too financially dependent on him to pursue any other option.[[11]](#footnote-11)

Several women said that because their husbands and parents strongly discourage them from taking up any employment outside the home, they are unequipped to find work if they leave their abusive husbands.

**We encourage the committee to pose the following questions to the government:**

What concrete steps has the government taken to:

* Enforce and monitor the Family Violence Law and the state program for the prevention of domestic violence for the period 2014–2023?
* Ensure that law enforcement officers consistently register and investigate domestic violence complaints, that perpetrators are prosecuted and held accountable, and that victims have streamlined access to services and protection and to effective remedies, including compensation?
* Provide targeted, mandatory capacity-building activities and trainings on the prevention and identification of, and the response to, all forms of gender-based violence, including domestic violence, for law enforcement and judicial officials, health and social workers, and other professionals who deal with gender-based violence and interact with victims, including in rural areas;
* Raise public awareness of all forms of gender-based violence, of available services, how to access them, and of appropriate action by the authorities, including the police and domestic courts, and monitor such activities and assess their impact?
* Implement legislation prohibiting religious marriages without a state registration certificate? We have called on the government to provide penalties for religious officials who perform marriages without such a certificate, to require verification of age and express consent, in private, of both parties, and that neither party is currently married, and to urge religious groups and leaders to adhere to such requirements.

**We encourage the committee to make the following recommendations to the government:**

* Adopt or amend legislation to criminalize all forms of gender-based violence, including domestic violence, marital rape, and sexual assault within and outside marriage and exempt those who have been convicted of these violent crimes from benefitting from amnesties;
* Publish comprehensive guidelines on implementation of the Family Violence Law that clearly define the roles and responsibilities of, and improve coordination between, government agencies responsible for implementing the Family Violence Law, such as the Committee on Women and the Family, the Ministries of Health, Justice and Internal Affairs, and the referral system for victims;
* Ensure the Committee on Women and the Family and the Ministries of Health, Justice and Internal Affairs have dedicated resources to implement the Family Violence Law;
* Adopt pro-arrest and pro-prosecution policies towards perpetrators of domestic abuse in line with the 2014 recommendations by the UN Office on Drugs and Crime;
* Ensure effective access to free legal aid, including for court representation, as well as medical, psychological and psychosocial assistance, shelter, rehabilitation and reintegration programs, for all women and girls who are victims of domestic violence, including in rural areas;
* Collect and publish data on cases of all forms of violence against women and girls disaggregated by type of violence, perpetrator, age and ethnicity of the victim, and on the number of complaints received, investigations carried out, prosecutions conducted and sentences imposed on perpetrators; and on the number of victims who have received such assistance, disaggregated by age, ethnicity, and geographical area;
* Amend existing legislation to provide that courts have discretion to rule that the *Vselenie* remedy, under which courts grant a woman a claim to live in the home of her former in-laws, does not have to be applied in cases where the woman is a survivor of domestic violence and that will allow her to live in rented accommodation where the rent will be covered by the perpetrator or the state;
* Establish state-funded shelters for victims of domestic violence across the country, especially in rural areas, and where possible ensure that such shelters are run in cooperation with NGOs;
* Provide access to state-funded social housing to protect particularly vulnerable people, including survivors of domestic violence;
* Ratify the Council of Europe (CoE) Convention on Preventing and Combatting Violence against Women and Domestic Violence, which is open for ratification by non-CoE member states.

**Protection of Education During Armed Conflict (art. 13)**

Tajikistan shares a border with Afghanistan, where attacks on students, teachers, and schools have accelerated in recent years.[[12]](#footnote-12) In this context, Tajikistan participated in the Third International Safe Schools Conference held in Spain in May 2019, which reviewed increasing global support for the Safe Schools Declaration and the implementation of its protections. As of August 2020, 104 countries have endorsed the Safe Schools Declaration, including five of Tajikistan’s fellow Commonwealth of Independent States members, and 24 fellow Organization of Islamic Cooperation members. To date, Tajikistan is yet to endorse it.

**We encourage the Committee to pose the following question to the government:**

* Are explicit protections for schools or universities from military use included in any policies, rules, or trainings for Tajikistan’s armed forces?

**We encourage the Committee to make the following recommendation to the government:**

* Endorse the Safe Schools Declaration, thereby committing to use the *Guidelines for Protecting Schools and Universities from Military Use in Armed Conflict.*
1. Human Rights Watch, *Violence with Every Step: Weak State Response to Domestic Violence in Tajikistan,* (New York: Human Rights Watch, 2019) https://www.hrw.org/report/2019/09/19/violence-every-step/weak-state-response-domestic-violence-tajikistan [↑](#footnote-ref-1)
2. CEDAW, Concluding observations on the combined 4th and 5th periodic reports of Tajikistan, para. 7, UN Doc. CEDAW/C/TJK/CO/4-5 (Oct. 18, 2013). [↑](#footnote-ref-2)
3. CEDAW, Concluding observations on the 6th periodic report of Tajikistan, paras. 25(e)-(f), UN Doc. CEDAW/C/TJK/CO/6 ((Nov. 14, 2018). [↑](#footnote-ref-3)
4. Human Rights Watch telephone interview with women’s rights lawyer, Dushanbe, December 17, 2018; Human Rights Watch telephone interview with NGO representative, Isfara, December 18, 2018. [↑](#footnote-ref-4)
5. Human Rights Watch phone interview with representative of women’s crisis center in south-eastern Tajikistan, September 28, 2018. [↑](#footnote-ref-5)
6. Human Rights Watch telephone interview with Shakarbek Niyatbekov, domestic violence expert, Swiss Agency for Development and Cooperation, July 18, 2019. [↑](#footnote-ref-6)
7. Human Rights Watch phone interview with representative of women’s crisis center in south-eastern Tajikistan, September 28, 2018; Human Rights Watch interview with Sayidali R., representative of women’s crisis center in northern Tajikistan, Dushanbe, July 22, 2015; Human Rights Watch interview with service provider Viktoriya V., July 20, 2015; Human Rights Watch telephone interview with Dushanbe NGO representative, Dushanbe, February 6, 2019. [↑](#footnote-ref-7)
8. Human Rights Watch interview with international expert, name withheld, Dushanbe, July 19, 2015; Human Rights Watch telephone interview with OSCE official with OSCE Program Office Gender Unit, Dushanbe, March 26, 2019. [↑](#footnote-ref-8)
9. Human Rights Watch interviews with Hairinisso H., Marifsho M., Sangoh S., Sharifamoh Sh., in Bokhtar, Murghab, Levakant, Dushanbe, July 21, 22, and August 3, 2015. [↑](#footnote-ref-9)
10. “Tajikistan: Long Prison Terms for Rights Lawyers Serious Blow to Independence of Legal Profession,” October 6, 2016, https://www.hrw.org/news/2016/10/06/tajikistan-long-prison-terms-rights-lawyers (accessed August 14, 2019). [↑](#footnote-ref-10)
11. Human Rights Watch telephone interview with Mehrangiz M., Shaartuz, February 11, 2019. [↑](#footnote-ref-11)
12. Global Coalition to Protect Education from Attack, *Education Under Attack: 2020,* July 2020, https://protectingeducation.org/wp-content/uploads/eua\_2020\_full.pdf, pg. 98. [↑](#footnote-ref-12)