Fighting Domestic Violence - Tajikistan

2. Introduction: framework guiding domestic violence law

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# 2.1 Are there civil and criminal legal remedies for domestic violence victims?

The LPDV does not recognize domestic violence as a crime, providing only for administrative liability and focusing on prevention rather than protection or punishment.

Under the LPDV the abuser can be detained or fined for the commission of domestic violence, be deprived of parental rights due to domestic violence or be issued and given instructions to comply with a protective order. It recognizes the rights of victims to legal, medical and psychosocial assistance and individual remedies, including registering a case of violence and obtaining protection orders.

This law defines different types of domestic violence, including psychological, sexual and economic violence. It also outlines the rights of victims of violence to receive medical, psychological and social assistance, access legal advice, support centers, medical care and centers for rehabilitation, seek protection from local administrative bodies for reprimand of the abuser, and seek protection from law enforcement agencies, the prosecutor's office or the court to hold the abuser accountable for committing violence.

However, it does not define "family," and there are reports that it leaves women who are divorced or in polygamous, child or unregistered marriages unprotected.

No English translation of the LPDV has been found, but it is discussed in:

UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the combined 4th and 5th periodic reports of Tajikistan, 29 October 2013, CEDAW/C/TJK/CO/4-5, available at: <https://www.refworld.org/docid/52f382c5f1.html>

Human Rights Watch, "Violence with Every Step" — Weak State Response to Domestic Violence in Tajikistan, 19 September 2019, available at: <https://www.hrw.org/report/2019/09/19/violence-every-step/weak-state-response-domestic-violence-tajikistan>

IPHR, Nota Bene and others, Tajikistan: Failure to Protect Women from Domestic Violence; joint NGO submission to CEDAW ahead of 71st Session, October 2018, available at: <https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT_CEDAW_CSS_TJK_32597_E.pdf>

**Article 93 of the Code of Administrative Offenses** refers to the "violation of the requirements of the legislation of the Republic of Tajikistan on the prevention of domestic violence" and "the violation of the requirements of a restraining order".

**The** [**CPC 2010:**](https://evaw-global-database.unwomen.org/en/countries/asia/tajikistan/2010/criminal-procedure-code-2010)

**Article 8** guarantees due process for all.

**Article 273(2)** states that courts may sit in closed session in cases involving: offenses by persons under the age of 16, offenses against freedom, and sexual and other offenses. Closed sessions may also be used for the purpose of preventing the disclosure of information about intimate aspects of the lives of these participating in the proceedings or other information injurious to their dignity, and in cases where this is necessary to ensure the safety of the participants in the proceedings and the witnesses, members of their families and their close relatives. Cases that are heard in closed session are held in compliance with all the rules of due process.

**Protections provided by the** [**Constitution of the Republic of Tajikistan 1994 (amended in2003):**](https://www.constituteproject.org/constitution/Tajikistan_2003.pdf?lang=en)

**Article 18** provides for the inviolability of a person, and that no one will be subject to torture, punishment and inhumane treatment.

Under **Article 19** everyone is guaranteed judicial protection. Everyone has the right to demand that their case be considered by a competent, independent and impartial court established in accordance with the law.

Under **Article 33** everyone has the right to form a family and men and women who have reached the marital age have the right to freely enter into a marriage. In family relations and in the dissolution of the marriage, spouses have equal rights. Polygamy is prohibited.

**Article 34** states that a mother and child will be under special protection and patronage of the state.

**Criminal Code of the Republic of Tajikistan:**

**Chapter 16** of this covers crimes against life and health, including both major and minor bodily injury (both intentional and careless), murder, assault, leading to death by suicide and other offenses against a person.

**Chapter 20** covers crimes against family and minors and these are focused on crimes against/involving minors.

The Criminal Code of the Republic of Tajikistan does not mention psychological/emotional violence, and there are no provisions relating to domestic violence.

There are no provisions relating to domestic violence within the [**Family Code**](https://cis-legislation.com/document.fwx?rgn=2316) of the Republic of Tajikistan (13 November 1998, as amended 2 February 2017).

# 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

No.

# 2.3 Has your country signed and ratified the conventions?

CEDAW was ratified by Tajikistan on 26 October 1993 ([link](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=171&amp;Lang=EN)). Tajikistan also accepted the Optional Protocol to CEDAW (individual complaints procedures) on 22 July 2014. However, Tajikistan rejected CEDAW-OP Art 9-8 (inquiry procedure).

# 2.4 If it has ratified the Maputo Protocol, how has it been implemented into national law (African Union member states only)?

N/A

# 2.5 If it has ratified the 1979 Convention (CEDAW), how has the recommendations part of General Comment No. 35 been implemented into national law?

No evidence of this, see domestic violence legislation answers above.

# 2.6 If the conventions have not been ratified or signed, is it envisaged that your country will do so?

No evidence of this found.

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