TAJIKISTAN

1. Discriminatory family code

As of 2010, changes to the Family Code mean that the minimum age of marriage for women and men is 18.¹ This can be reduced by one year with permission from the court (reasons not specified).²

Under the Tajikistan criminal code, if a parent marries off a girl who has not reached the legal marriage age, they can face criminal charges. Criminal charges can also be brought against a man who marries an underage girl. Penalties are correctional labour for up to two years, restriction of freedom for two years, or confinement for six months by parents or guardians.³,⁴

Only marriages registered with civil registry offices are legally recognised in Tajikistan.⁵ It appears that increasingly marriages are not registered; instead, couples marry in a religious ceremony.⁶ One reason given for this in the report of the Special Rapporteur on Violence against Women (who visited Tajikistan in 2009) is that it enables girls to marry before they reach the age of 18.⁷

Legislation introduced in 2011 to restrict the right of foreign men to marry Tajikistani women has had the effect of making it less likely for such couples to register their marriages; this particularly affects couples living in border areas, where rates of cross-border marriage are high.⁸

It appears that the law related to age of marriage is poorly implemented in practice. As mentioned above, religious marriage is used as a way of circumventing legislation on the minimum age of marriage; in addition, according to research by United Nations Population Fund (UNFPA), cases of early marriage where prosecutions are brought under the criminal code usually result in a fine rather than a prison sentence.⁹

UNFPA found that the main drivers of early marriage in Tajikistan are poverty, lack of value placed on girls’ education, and religious influence and high rates of male out-migration to Russia and Kazakhstan (which means there are fewer men of marriageable age, and parents are prepared to give their daughter away to the first man who asks to marry her, or as a second or a third wife out of fear that she will be left unmarried). Rates of early marriage were particularly high during the

¹ Family Code, Article 13
² Shonasimova, Shahrinbou (2012), p. 2
³ Criminal Code, Articles 168, 169
⁴ Thomas, Cheryl (2009), p. 11
⁵ CEDAW (2012) p. 32
⁷ Human Rights Council (2009), p. 16
⁸ Shoshina, Ekaterina (2013)
⁹ Shonasimova, Shahrinbou (2012), p. 2
country’s civil war (1992-1997). Parents sought to marry off teenage daughters to ‘protect’ them from the threat of sexual violence, and others were abducted and forced into marriage by combatants.  

According to a 2012 report by UN Women, there are some worrying trends in the region that lead to early and forced marriage, including corruption in local courts: in 2012, out of 318 marriages registered, 15 were underage marriages due to a decision made by a local court. Poverty is another factor leading families to marry their daughters early, so they can be supported by their husbands’ families instead. The practice of “matchmaking” girls as early as 12 or 13 years old is a new trend that prevents girls from attending school. In addition, this practice creates a level of competition among girls, as early marriage indicates a social status for them.  

Under Article 61 of the Family Code, mothers and fathers share parental authority, and have equal rights and responsibilities regarding their children’s development and education.  

Women and men have the same legal right to be recognised as the head of the household (law not specified).  

Equal decision-making authority over children continues after divorce.  

Under the constitution, customary and religious law are not considered valid sources of law, in relation to parental authority or any other matters.  

According to USAID, despite the fact that high levels of male out-migration mean that women are often the de facto heads of households, rigid notions of men’s and women’s roles in society and in the home remain. It is believed that men should occupy the role of breadwinner and head of the household, while women should confine themselves to domestic and care work within the home.  

Women and girls have equal inheritance rights as wives and as daughters. However, women living in unregistered, religious marriages have no protected inheritance rights in the event of widowhood.  A shadow report submitted to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) committee in 2012 notes that the inheritance rights of children born into unregistered marriages are also not protected.  

Under the constitution, customary and religious law are not considered valid sources of law, in relation to inheritance or any other matters.  

In practice, women often transfer property that they have inherited to male relatives. It is common for the youngest son to stay in the family home to care for his parents in old age, and then

10 Shonasimova, Sharihbonu (2012), p. 3-5  
11 UN Women (2012), p. 45-48  
12 CEDAW (2012) p. 32  
14 Family Code, Article 66  
16 USAID (2010), p. 38  
17 Constitution, Article 32  
18 Human Rights Council (2009) p. 15  
19 JICA (2008), p. 53  
20 Coalition of Public Associations (2012), p. 59  
22 Coalition of Public Associations (2012), p. 55
to inherit their property when they die.\textsuperscript{23} An article from 2011 notes that in practice, religious leaders are often called upon to resolve inheritance disputes, who usually decide in favour of male relatives, or accord female descendants a smaller proportion of the property, in accordance with sharia law.\textsuperscript{24}

**More**

Under the Family Code, women and men have the same \textbf{right to initiate divorce}.\textsuperscript{25} However, divorce carries a high social stigma for women in Tajikistan, meaning that few women initiate divorce.\textsuperscript{26}

Women living in unregistered, religious marriages have few rights in divorce; for instance, the wife has no legal recourse to claim the equal division of assets, meaning that divorced women can end up homeless and living in poverty.\textsuperscript{27, 28, 29}

A 2013 report by HelpAge International found that \textbf{elder abuse} is a significant problem in Tajikistan.\textsuperscript{30}

2. **Restricted physical integrity**

The new Law on the Prevention of Domestic Violence was adopted in March 2013.\textsuperscript{31} Assault charges can be brought against perpetrators in cases of \textbf{domestic violence}, but as the 2005 official Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report notes, this occurs very rarely.\textsuperscript{32}

The Law on the Prevention of Domestic Violence includes a comprehensive definition of domestic violence that encompasses physical, psychological, sexual, and economic violence.\textsuperscript{33} The law applies to any persons living in the same household, including couples living in unregistered marriages.\textsuperscript{34}

Under the Law on the Prevention of Domestic Violence, 15-day protection orders can be issued; these can be extended by an additional 15 days. Courts can also impose ‘administrative detention’ on perpetrators.\textsuperscript{35}

The text of the Law on the Prevention of Domestic Violence includes a comprehensive mechanism for its implementation, laying out the responsibilities of national and local authorities, committees for women’s and children’s rights, the police, educational establishments, medical facilities, and crisis centres in regard to protecting people from domestic violence.\textsuperscript{36}

\begin{footnotesize}
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\item \textsuperscript{23} www.everyculture.com (n.d.)
\item \textsuperscript{24} Faromarzi, Olamafroz (2011)
\item \textsuperscript{25} CEDAW (2012), p. 32
\item \textsuperscript{26} Shonasimova, Shahribonu (2012), p. 5
\item \textsuperscript{27} Thomas, Cheryl (2009), p. 13-14
\item \textsuperscript{28} Human Rights Council (2009), p. 15
\item \textsuperscript{29} JICA (2008), p. 53
\item \textsuperscript{30} Navrieva, Nasima (2013)
\item \textsuperscript{31} UN Women (2013)
\item \textsuperscript{32} CEDAW (2005), p. 8
\item \textsuperscript{33} Law on the Prevention of Domestic Violence, Article 1
\item \textsuperscript{34} UN Women (2013)
\item \textsuperscript{35} Law on the Prevention of Domestic Violence, Article 21
\item \textsuperscript{36} Law on the Prevention of Domestic Violence, Articles 7-17
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One significant barrier to criminal prosecution in domestic violence cases is the fact that victims, rather than police or prosecutors, are required to collect evidence of the domestic violence they have suffered before authorities will initiate charges. When cases do reach prosecution, prosecutors usually encourage reconciliation, in the interests of ‘preserving the family’.

Women who have experienced domestic violence have limited access to justice as police and the judiciary treat domestic violence as a ‘family matter’ and discourage women from pressing charges. Police and judiciary are often indifferent and in some cases, condemn women for making claims of domestic violence. The US Department of State notes that some police have received training in how to deal with domestic violence cases, but that this training had only been offered to officers working in five police stations across the country.

Domestic violence remains widely underreported. According to a report by the Japan International Cooperation Agency (JICA) and to the Special Rapporteur’s report, domestic abuse – in the form of men beating their wives and children, and mothers-in-law verbally and emotionally abusing their daughters-in-law – is considered to be a normal part of family life. In her report, the Special Rapporteur refers to two recent surveys, which found that the majority of women and men interviewed agreed that a husband was justified in beating his wife under certain circumstances. The subject remains taboo, and women who do speak out are stigmatised, so few women do. In addition, support for victims is woefully inadequate, with patchy services provided by women’s rights NGOs who are dependent on international donor funding. There is just one shelter in the country, in the town of Khujand. Silence around domestic violence and the lack of support for victims leads to a high number of suicide attempts among young women, according to the Special Rapporteur and the JICA report. A 2013 study by UNICEF also shows that domestic violence is one of the factors predicting a suicidal behaviour.

Women living in unregistered and polygamous marriages which are not legally recognised are said to be particularly vulnerable to domestic violence, as they are often in a weak position to leave abusive relationships, due to lack of support, alternative housing, and legal protection.

According to the 2012 Demographic Health Services report, 21.1% of women have experienced physical violence at least in their lifetime, and 13% have experienced it within the 12 months prior to the survey. In addition, 4% of women report having experienced sexual violence at least once in their lifetime. Almost one in five ever-married women aged 15 to 49 years old reported that they experienced emotional, physical or sexual violence from their husband.

**Rape** is a criminal offence in Tajikistan.

The definition of rape does not specifically include spousal rape.
There is nothing in the criminal code to indicate that a rapist can escape prosecution by marrying the victim.\(^49\)

The penalties for rape are between three and twenty years imprisonment, or the death penalty, depending on the age of the victim, the number of attackers, and the nature of the attack.\(^50\) It is worth noting that since 2004 Tajikistan put a moratorium on the death penalty, which means that life imprisonment was declared as a legal alternative for that punishment.\(^51\)

It appears that rape is very rarely reported, mainly due to social stigma.\(^52, 53\)

According to data held by the United Nations Office on Drugs and Crime, 36 cases of rape were registered with the police in 2009.\(^54\) It is unclear how many of these resulted in a conviction; however, the Advocates for Human Rights note that as of 2008, 97% of rape cases that progress to criminal proceedings resulted in a conviction.\(^55\)

The Special Rapporteur noted that overall there is a lack of specialised units and trained police staff to deal with cases of gender-based violence, including sexual violence.\(^56\) The US Department of State reports that police often try to dissuade women from filing charges of rape or sexual assault.\(^57\)

Sexual violence carries a very high social stigma in Tajikistan. During her mission, the Special Rapporteur encountered young girls who had been raped, and who had then been thrown out of the family home by their parents, putting them in an extremely vulnerable position.\(^58\) According to JICA, the civil war in Tajikistan exacerbated levels of violence against women, and rape and forced marriage were used as weapons of war.\(^59\)

Very little information is available on sexual harassment in Tajikistan. The US Department of State Country Report on Human Rights Practices for Tajikistan notes that there is no specific law addressing sexual harassment in the workplace or any other sphere.\(^60\)

According to the special rapporteur, sexual violence in general is a taboo topic in Tajikistan.\(^61\) Freedom House and the US Department of State report that sexual harassment is common, but rarely reported or investigated due to social stigma.\(^62, 63\) The US Department of State notes that women reporting sexual harassment are often accused of making up the claims, and face retaliation from their employers and disgrace from their families and communities.\(^64\)

There is no evidence to suggest that female genital mutilation is practised in Tajikistan.

\(^{49}\) Criminal Code, Articles 138-142
\(^{50}\) Criminal Code, Article 138
\(^{51}\) Delegation of the European Union to the Republic of Tajikistan (2011)
\(^{52}\) US Department of State (2013)
\(^{53}\) Advocates for Human Rights (2008)
\(^{54}\) United Nations Office on Drugs and Crime (2010)
\(^{55}\) Advocates for Human Rights (2008)
\(^{56}\) Human Rights Council (2009), p. 21
\(^{57}\) US Department of State (2013)
\(^{58}\) Human Rights Council (2009), p. 12
\(^{59}\) JICA (2008), p. 48
\(^{60}\) US Department of State (2013)
\(^{61}\) Human Rights Council (2009), p. 11
\(^{62}\) Freedom House (2013)
\(^{63}\) US Department of State (2013)
\(^{64}\) US Department of State (2013)
More

Cases of abduction for forced marriage (bride kidnapping) have been documented in Tajikistan. Some reports indicate that the practice is becoming more common, particularly in the northeast of the country.65, 66

According to Amnesty International, accounts of torture in police custody have included rape and sexual violence towards female and male detainees.67

Abortion is available on demand in Tajikistan.68

3. Son bias

The male/female sex ratio for the working age population in 2013 is 0.98 while the sex ratio at birth is 1.05.69 Based on this data, there is no evidence to suggest that Tajikistan is a country of concern in relation to missing women.

More

In 2012, the ratio of female to male primary education enrolment was 98%. In 2011, the ratio of female to male secondary school enrolment was 88% and 97 for primary education.70

According to 2010 data provided by UNICEF’s Understanding Children’s Work, girls participate more in household chores than boys.71 Additionally, according to 2002-2012 data, child labour affected girls slightly more than boys.72

5. Restricted civil liberties

There is no private land ownership in Tajikistan.73 Under the Land Code, women and men have equal rights to access and manage land.74

Under the constitution, customary and religious law are not considered valid sources of law, in relation to land rights or any other matters.75

The 2012 Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report states that just 10% of landowners (or land managers) are women.76 However, according to the World Bank, 78% of female-headed households (where there is no working-age male) manage land, compared to 89% of male-headed households, and 91% of female-headed households with at least one working age male.77

According to the 2005 official CEDAW report, many women are unaware of their rights and the opportunities available to them as a result of land reform processes that began in the 1990s. Even

65 Thomas, Cheryl (2009), p. 7
66 Ahmadova, Fayzia (2011)
68 United Nations Department of Economic and Social Affairs, Population Division (2013)
69 CIA
70 World Bank Development Indicators Database
71 UNICEF, Understanding Children’s Work
72 UNICEF
73 Coalition of Public Associations (2012), p. 51
74 Land Code, Article 66
76 CEDAW (2005), p. 56
when they do know their rights, registering a farm is a complex administrative process. When women are allocated land in their own right, it is often of poor quality for farming, and they are often denied access to land belonging to their husbands in the event of divorce or widowhood. In addition, requirements in the Land Code that land only be allocated to those who are qualified to manage it discriminate against women, given that few have formal agricultural qualifications, and local officials tend to view them as incapable of running a farm.

As USAID notes, as a result of high rates of male out-migration, agricultural production in Tajikistan is effectively ‘feminised’ and women both manage land and are the bulk of agricultural labourers. However, they lack education, access to productive resources, and technical training that would enable them to increase productivity above subsistence levels, and increase wealth.

The Tajik Civil Code gives women the right to have access to property other than land and to enter into contracts in their own names.

Under the Family Code and the Civil Code, within registered marriages, spouses have equal property rights, but this does not apply to unregistered, religious marriages, leaving many women unable to claim their property rights when the relationship breaks down.

Under the constitution, customary and religious law are not considered valid sources of law, in relation to property rights or any other matters.

The results of a survey carried out in 2009 found that 15.6% of women owned houses, 21.3% owned apartments, 2.4% owned cars, and 2.3% owned tractors or trucks.

In practice, property is routinely registered in the name of husbands or male relatives, as property ownership is seen as a male prerogative. In addition, most married couples live in property belonging to the husband’s parents, meaning that the wife has no legal claim on the property at all.

Women and men have the same rights to access bank loans and credit. Few women apply for loans, however, primarily because they do not understand their rights and the procedures involved. The fact that most property is registered to men rather than women makes it difficult for women to secure credit, as they cannot provide collateral for loans. High bank charges and rates of interest also hamper women’s access to credit.

According to the World Bank, 3% of men and 2% of women had a bank account in 2011.

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78 CEDAW (2005), p. 56-57
79 JICA (2008), p. 38
81 CEDAW (2005), p. 49
82 Human Rights Council (2009), p. 15
83 Coalition of Public Associations (2012), p. 51
85 Coalition of Public Associations ‘From de jure equality towards de facto equality’ (2012), p. 51
86 Coalition of Public Associations ‘From de jure equality towards de facto equality’ (2012), p. 51, 55, 61
87 Law on State Guarantees of Equal Rights for Men and Women; CEDAW (2012), p. 8
88 CEDAW (2005), p. 57
89 Coalition of Public Associations (2012), p. 51
90 JICA (2008), p. 38
As of 2012, women made up 32.91% of recipients of micro-credit in Tajikistan, according to the Microfinance Information Exchange.  

5. Restricted civil liberties

Under Article 24 of the Constitution, all citizens of Tajikistan have the right to freedom of movement, freedom to choose his or her place of residence, and the right to leave and return to Tajikistan.

Rigid gender roles in some cases restrict women’s access to public space; for instance, in some families, girls are taken out of school early, and women are prevented from working or studying outside the home.

While women face no legal restrictions on where they can live, in practice, a woman is expected to move to live with her husband’s family when she marries.

There are currently no quotas in place to promote women’s political participation at any level.

In the 2013 address of the Head of the Delegation of the Republic of Tajikistan during the 56th session of the joint fourth and fifth periodic report on CEDAW, it was noted that the number of women in the parliament has slightly increased: there are 15% of women in the Upper Chamber or “Majlisi Milli Majlisi Oli” (an increase of two women since 2005) and there are 19.4% of women in the lower chamber or “Majlisi Namoyandagon Majlisi Oli” (compared to 17.5% in 2005). In addition, there are 517 women representatives in the local, regional, city and district to the Majlises, which represents an increase of 3.5 times compared to 2005.

More

Much of the media in Tajikistan is state controlled. A shadow report submitted to the CEDAW committee in 2012 notes that there is little effort made in the media to challenge existing gender stereotypes, and women are rarely represented in positions of leadership or authority. The media are generally uninterested in reporting on what are seen as ‘women’s issues’, and more critical coverage of gender issues only occurs when content is supported by a grant from an international organisation.

Concerning workplace rights, discrimination on the basis of gender is prohibited under the Labour Code.

Following government reforms, wage disparity between women and men slightly decreased in the education sector: while in 2009 women earned 20.5% less than men per month, this wage earning gap was 15.7% in 2012.

Pregnant women are entitled to 140 days paid maternity leave. While on maternity leave, a woman receives 100% of her salary, financed through the state social security fund.

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91 Microfinance Information Exchange (2013)
92 CEDAW (2012) p. 31
93 USAID (2010), p. 38
94 Coalition of Public Associations (2012), p. 56
95 Coalition of Public Associations (2012), p. 21
96 Address of the Head of the Delegation of the Republic of Tajikistan (2013)
97 Coalition of Public Associations, p. 23
98 Human Rights Council (2009, p. 15
99 Labour Code, Articles 7, 145, 165, 172
100 Mirzoev, S. (n.d.), P. 25
Tajikistan has restrictive laws in place on **freedom of religion**. For instance, under the Parental Responsibility Law (2011), parents must prevent their children from participating in religious activity, except for state-sanctioned religious education, until they are 18 years old. In addition, some Muslim minority groups and Christian minority denominations are banned.\(^{103}\) In its concluding observations on the combined fourth and fifth periodic reports of Tajikistan, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee also notes some restrictions as to women’s access to mosques and their freedom of expression and religion.\(^{104}\)

\(^{101}\) Labour Code, Article 164  
\(^{102}\) Law of the Republic of Tajikistan on State Social Security, Article 13; Labour Code, Article 164; ILO (2011)  
\(^{103}\) Human Rights Watch (2013), p. 484-485  
\(^{104}\) CEDAW Committee (2013), p. 3
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