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مجلس حقوق الإنسان  
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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية  
والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بمسألة العنف ضد المرأة  
وأسبابه وعواقبه، السيدة ياكين إرتورك\*

إضافة

البعثة التي قامت بها إلى طاجيكستان\*\*

\* تأخر تقديم هذه الوثيقة بغية تضمينها آخر ما استجد من معلومات.

\*\* يعمم موجز تقرير هذه البعثة بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويعمم فقط باللغة التي قُدم بها وبالروسية.

## موجز

يتضمن هذا التقرير ما خلُصتُ إليه من نتائج إثر زيارة رسمية قمتُ بها إلى طاجيكستان في أيار/مايو ٢٠٠٨ بصفتي المقررة الخاصة المعنية بمسألة العنف ضد المرأة وأسبابه وعواقبه.

إن المرحلة التي اجتازتها طاجيكستان للانتقال من اقتصاد موجه مركزياً إلى اقتصاد موجه من السوق في أعقاب استقلالها من الاتحاد السوفياتي كانت مرحلة مضطربة إلى حد كبير، حيث رافقتها حرب أهلية مدمرة. أما اليوم، فيبدو أن طاجيكستان قد حققت استقراراً سياسياً ودخلت مرحلة نمو اقتصادي. غير أن الحالة ما زالت هشة، إذ ما برحت طاجيكستان تواجه تحديات تتصل بالعملية الانتقالية وتتصف بتضائل موارد الرزق وتقلص الخدمات الاجتماعية واستفحال الفقر. وباتت شريحة واسعة من السكان تلجأ إلى زراعة الكفاف أو الهجرة من أجل تلبية احتياجاتها الأساسية، مع ما يترتب على ذلك من نتائج ضارة بالمرأة.

وما برحت المرأة بوجه خاص هي المتضررة من آثار العملية الانتقالية في طاجيكستان. فبينما يكفل القانون المساواة بين الجنسين من الناحية الشكلية، فإن ما تحقق من منجزات اقتصادية - اجتماعية وسياسية أثناء العهد السوفياتي قد اضمحلت، حيث أخذت تحل محلها خطابات وممارسات ذكورية تركز موقع المرأة التبعي في الأسرة والمجتمع، ما أفضى إلى تزايد تعرض المرأة للعنف والاستغلال.

ويحظى العنف ضد النساء والفتيات بقبول الرجال والنساء على السواء بوصفه مظهراً من مظاهر السلوك اليومي. والعنف من جانب الأزواج وأفراد الأسرة الآخرين هو ظاهرة واسعة الانتشار. كما تقع النساء والفتيات ضحايا للعنف والاستغلال الجنسي في الشوارع، وللاحتجار بمن داخل البلد وخارجه. وإن عدم وعي المرأة بحقوقها، والمسائل المتصلة بتسجيل الإقامة، وتزايد حالات التزويج المبكر وتعدد الزوجات وعدم تسجيل الزواج، جميعها أمور تعمل على زيادة استضعافهن وتفاقم شدة تعرضهن للمخاطر والأزمات. وعلى الرغم من اتخاذ بعض الخطوات المشجعة في هذا الشأن، فإن ما تقوم به الهيئات الرسمية من مبادرات لحماية ضحايا العنف ودعمهن ومقاضاة الجناة، ما فتئت غير كافية. ونتيجة لذلك، ترى بعض النساء أن المخرج الوحيد أمامهن هو بالانتحار أو بقتل الجاني بحقهن.

في ضوء هذا الوضع، أناشد الحكومة أن تتخذ تدابير في المجالات التالية ذات الأولوية: تمكين المرأة والمساواة بين الجنسين؛ القضاء على العنف ضد المرأة والفتاة؛ جمع الإحصاءات والبيانات؛ الممارسات المتعلقة بالزواج، وتسجيل الإقامة، والإسكان. وكثير من التوصيات الواردة في التقرير هي أيضاً ذات منفعة للمنظمات الدولية والجهات المانحة.

## Annex

**REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST  
WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK, ON  
HER MISSION TO TAJIKISTAN  
(15-23 MAY 2008)**

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## I. INTRODUCTION

1. From 15 to 23 May 2008, I carried out an official visit to Tajikistan at the invitation of the Government. During the course of my mission, I held consultations in Dushanbe with the Ministers of Foreign Affairs, Justice, and Labour and Social Protection, the Chairperson of the Supreme Court, the Chairpersons of both the Committee on State Statistics and the Committee for Women and Family Affairs, other government officials and members of Parliament. I met with representatives of civil society organizations, including women's groups, the Council of Ulema, imams, and representatives of United Nations agencies, the Organization for Security and Cooperation in Europe and the donor community. I had the opportunity to speak with women survivors of violence at crisis centres in Khujand and Kurgan-Tyube, and with rural women in the Bobodjon Gafurovskiy and Vakhdat districts. I also visited the women's prison in Nurek.
2. I would like to thank the Government of Tajikistan and the United Nations country team in Tajikistan for facilitating my mission. I am particularly grateful to those women who shared their experiences with me.
3. The report starts with an examination of the challenges of transition, which has a direct bearing on women's lives in Tajikistan. This is followed by a discussion of the most prevalent forms of violence encountered by women and factors aggravating their vulnerability to it. After assessing responses to violence by governmental and non-governmental actors, the report ends with conclusions and recommendations.
4. I look forward to a continued dialogue with the Government and other stakeholders on the implementation of my recommendations.

## II. THE Challenges of Transition

5. The transition in Tajikistan from a command economy to a market-led economy following the break-up of the Soviet Union was particularly turbulent. Upon independence in September 1991, Tajikistan, the poorest of all the former Soviet Republics,<sup>1</sup> experienced a devastating civil war,<sup>2</sup> which, coupled with the withdrawal of subsidies from Moscow and the strenuous dictates of the global economy, put the country in disarray, causing the already ailing economy to deteriorate and eroding sources of livelihood for the population at large.
6. Today, Tajikistan seems to have arrived at political stability, with signs of economic recovery and growth,<sup>3</sup> but the situation remains fragile. Strenuous sources of livelihood, low levels of agricultural productivity, declining welfare provisions and services, concentrated structures of economic and political power and the lack of access to justice by the population are among the sources of continued tensions. Remittances from labour migrants abroad, on the other hand, constitute one of the most important safety valves for the Tajik economy and people - a phenomenon that is problematic in itself.

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<sup>1</sup> Tajikistan's gross domestic product per capita (GDP) was nearly two thirds of that of other countries in the region. The GDP was estimated at US\$ 400 in 1991, and at US\$ 215.4 in 1998 (UNDP, 2000).

<sup>2</sup> The civil war ended with the conclusion in 1997 of a General Agreement on the Establishment of Peace and National Accord between the Government and the United Tajik Opposition. Around 60,000 people were killed, 55,000 were orphaned and 25,000 women left widowed. Women were also subject to physical and sexual violence, though exact figures are unknown.

<sup>3</sup> SIDA, "Making pro-poor growth in Tajikistan sustainable", Country Economic Report, 2007, p. 2.

7. As in other transition economies, the process in Tajikistan has had a distinct gender face, affecting women's well-being and socio-economic status. Resurging traditionalist patriarchal discourses and practices have increased women's vulnerabilities to exploitation and abuse.

#### **A. Changing trends in women's status**

8. When Tajikistan was a Soviet Republic (1929-1991), despite poverty, its people enjoyed some of the socio-economic benefits offered by the Soviet model of development. In 1992, with a Human Development Index of 0.629, Tajikistan compared to the 0.649 averaged by United Nations Development Programme's (UNDP) "medium"-income countries. A range of social and health benefits were made available to families with children, persons with disabilities and the elderly. Education was compulsory up to grade 11 for both girls and boys, facilitating near-universal literacy at independence. Life expectancy at birth averaged 70 years.

9. The legal reforms undertaken during the Soviet period contributed significantly to improving women's status, as secular institutions and laws became established. Certain practices such as polygamy, the payment of bride price (*kalym*), and marriage without consent were banned. The minimum age for marriage was set at 18 for boys and girls. Programmes, such as quotas, to ensure women's representation in political and administrative processes at all levels of governance were adopted. Thanks notably to generous maternity leave and free day care, women constituted 40 per cent of the labour force. They remained, however, underrepresented in decision-making positions and in industries.<sup>4</sup>

10. Patriarchal gender relations in private life were not necessarily altered by the Soviet emancipation process.<sup>5</sup> Upon independence, as the country moved away from its Soviet past, hard-line patriarchal values, presented with religious overtones, gained prominence in public discourse. Women's domestic and reproductive roles as well as the primacy of family preservation surfaced as highly cherished values. 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.<sup>6</sup>

11. The resurgent traditionalist patriarchal values are also supported by the changing material basis of women's rights. As the country liberalized its economy, Tajik women became unemployed, dispossessed and dislocated, and lost many of the public benefits previously available to them. State provisions for childcare, maternity and health services<sup>7</sup> withered away, and industries that

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<sup>4</sup> Falkingham, J. (2000), *Women and gender relations in Tajikistan: Country briefing paper*, Asian Development Bank.

<sup>5</sup> As in other parts of the Soviet Union, the gender policies emphasizing women's paid work outside the home on equal terms with men did not necessarily question traditional patriarchal norms that governed women's status in private life. The pro-natalist policies prevailing in the region also reinforced women's reproductive role.

<sup>6</sup> According to its Constitution, Tajikistan is a secular State; it has a Sunni Muslim majority and Shia minority.

<sup>7</sup> Since independence, maternal mortality has been relatively high, currently estimated at 97 deaths per 100,000 live births (State Committee on Statistics, Multiple Indicator Cluster Survey, 2005).

employed women closed down. At the same time, the decrease in male population due to the war and the labour exodus that followed left many women as the sole providers for their families.

12. With the withdrawal of quotas, women's political representation sharply declined.<sup>8</sup> The gender gap in education, particularly illustrative of the intersection between poverty and patriarchy, has widened, resulting in a steady decline in school attendance of girls, in particular at the secondary and tertiary levels. While in 2006 girls made up 47 per cent of students in grades 5 to 9, in grades 10 and 11 they comprised only 39 per cent, possibly fewer given the likelihood of underreporting. Although poverty and the need for agricultural labour are often shown as the reason for the decline in school attendance for girls, it is worth noting that, when responding to such bottlenecks, families are more likely to withdraw girls than boys from school.<sup>9</sup>

## **B. Poverty and sources of livelihood**

13. Despite significant economic growth since 1997, reaching a peak of 10.6 per cent growth in 2004, poverty continues to afflict Tajikistan. According to World Bank data, in 2006 those living on less than US\$ 2 per day were still as much as 43 per cent of the population, whereas in 1999 two thirds of the population lived below the World Bank poverty line.<sup>10</sup> In 2005, official development assistance amounted to over 10 per cent of GDP, reflecting Tajikistan's difficulties to secure full economic independence.<sup>11</sup> As discussed below, the economy is highly dependent on migrants' remittances.

14. Despite the relative decline in income poverty, the worsening of social and health indicators constitutes a threat to human well-being. Life expectancy for women dropped from 72.9 years in 1991 to 69.7 in 1998 and 68.1 in 2008, the corresponding figures for men being 67.3, 64.3 and 61.95 years, respectively. While the acute poverty due to the turmoil of the 1990s has been identified as transient in nature, when young generations - especially women and girls - are deprived of the resources and services needed for the development of their capabilities, poverty in the longer term is likely to deepen and become chronic. In this regard, emerging trends in school dropout rates, early marriage for girls and women's lack of professional expertise and training are reasons for continued impoverishment.<sup>12</sup> The situation is particularly dire in rural areas, where poor infrastructure compounds the burden on women.<sup>13</sup>

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This is due to lack of health-care professionals and equipment and the emergence of diseases bred by poverty as well as high level of home births (estimated at 80 per cent).

<sup>8</sup> It is only recently that women's participation has been increasing, with women representing 29.8 per cent of all civil servants in 2006. Very few women, however, occupy important State positions, and these are mainly in traditional women's sectors such as education.

<sup>9</sup> In a 2002 survey 57 per cent of parents believed it was more important to provide education for boys. See State Committee on Statistics, "Women and men in Tajikistan", 2007.

<sup>10</sup> Development Data Group, World Bank (2006), *World Development Indicators 2006*, at [http://publications.worldbank.org/e-commerce/catalog/product?item\\_id=631625](http://publications.worldbank.org/e-commerce/catalog/product?item_id=631625) and on <http://earthtrends.wri.org/povlinks/country/tajikistan.php>.

<sup>11</sup> UNDP, *Human Development Report 2007/08*.

<sup>12</sup> Over 80 per cent of women turning to employment service offices have no specialized skills. See "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" (hereafter, CEDAW State report), CEDAW/C/TJK/1-3.

<sup>13</sup> Access to piped water or a public tap in rural areas, home to 73 per cent of the population, is only 40 per cent compared to 96 per cent access in urban areas.

15. Coping with poverty is a difficult task for the Tajik people, who have few options to make ends meet. Agriculture and labour migration are the most viable sources of livelihood for the majority of the people today - each embodying its own risks and opportunities.

### 1. Agriculture

16. Agriculture provides the most important source of employment and income for over 60 per cent of the population. However, 90 per cent of Tajikistan's territory is mountainous, leaving limited land for the production of cash and subsistence crops.<sup>14</sup> Furthermore, poor agricultural infrastructure, dubious land-use patterns and lack of agricultural credit and capital inputs hamper labour productivity, income levels<sup>15</sup> and seriously undermine the sector's capacity for market integration.<sup>16</sup>

17. Labour conditions are poor. According to the Government, only 20 per cent of people working in agriculture are properly covered by labour contracts prior to starting work and there are problems regarding the payment of salaries. Women, who comprise over 70 per cent of all agricultural workers, are particularly disadvantaged as their access to land tends to be insecure. The process of privatization of land-use from the system of collective farming (*kolkhoz*) has been slow and the vaguely worded legislation, compounded with an opaque process of land-use title acquisition, enables the use of discretionary power by authorities to deprive women and other marginalized groups of their land-use rights. The proportion of private (*dehqon*) farms headed by women was only 6.8 per cent of total registered farms in 2004.<sup>17</sup> When women access land, it tends to be marginal unproductive plots, leaving many, especially female-headed households, destitute.

### 2. Labour migration

18. Permanent or seasonal labour migration has become the most important safety valve for the Tajik economy and its people in releasing the pressures of social discontent and labour surplus. It is estimated that 1 million people out of a population of over 7 million are migrants.<sup>18</sup> The majority of migrants are young unskilled men working mainly in the Russian Federation.<sup>19</sup> Many work in low-paid and insecure jobs in private enterprises. The situation is worse for those who do not

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<sup>14</sup> The country has the least agricultural and irrigated land in Central Asia. Up to 80 per cent of Tajikistan's agricultural output, especially raw materials such as cotton, was transported to other republics of the former Soviet Union, in exchange for subsidies and foodstuffs. Source: "Notes for a strategy for the agricultural sector in Tajikistan", draft, December 2007, Ministry of Agriculture and Protection of Nature of the Republic of Tajikistan with European Union support, p. 7.

<sup>15</sup> In 2004, the average monthly wage in agriculture was 35 Somoni (US\$ 11), against 156 Somoni (US\$ 50) in the non-agricultural private sector (IMF 2005), quoted in SIDA, op. cit., p. 47.

<sup>16</sup> The relative growth in agriculture production came essentially from subsistence farming. See "Notes for a strategy for the agricultural sector", p. 19. For analysis of the dismal situation in agriculture see also SIDA (2007).

<sup>17</sup> SIDA, pp. 48-49.

<sup>18</sup> The total population of Tajikistan is 7,211,884 (July 2008). (See <https://www.cia.gov/library/publications/the-world-factbook/geos/ti.html>).

<sup>19</sup> According to government and other sources, there are about 600,000 Tajiks in the Russian Federation and another 50,000 in other countries, including Kazakhstan. These figures reflect only the formal documented migrants. Including those staying illegally, the total estimate reaches 2 million. Thirty (30) per cent of Tajik migrants have no skills, and 60 per cent work in a field other than their specialization.

possess work and residency permits. Female migration is said to be on the increase, with estimates ranging from 8 to 20 per cent of the overall migrant group.

19. Migrant remittances have enabled households to improve their levels of subsistence. Remittances are also a significant component of the national economy of Tajikistan: officially recorded remittances constituted around 36.2 of GDP in 2006, and between 33 and 38.2 per cent in 2007, while the total estimate, including unrecorded flows, is believed to reach over 50 per cent of GDP.<sup>20</sup> However, labour migration has reportedly had limited effect on the overall development of the economy.<sup>21</sup> Migration has also had disruptive effects within the labour force and households, with diverse implications for the women left behind.

20. With most able-bodied men abroad, the wives of migrants become the main workforce for farming and bear increased responsibilities for child and elder care and household subsistence. They work more than women in non-migrant households and many must take low-paid jobs outside of the household, usually in agriculture.<sup>22</sup> The increased workload borne by wives of migrants has not been accompanied by their increased participation in decision-making within the household or a higher social status in general.<sup>23</sup> In the husband's absence, budget and household management generally remains with the male or senior female member of his family.<sup>24</sup> This may imply more workload, greater subordination and abuse and compounded hardship for the women.

21. The situation of abandoned or evicted women is the worst, as they may find themselves without a home or sources of income. Access to social security benefits or assistance is limited and a cumbersome process. Finding a job for abandoned women or those whose husbands stop sending money becomes critical. Since women disproportionately lack expertise and skills,<sup>25</sup> their only job opportunities may be arduous and low-paid work in agriculture or the informal sector. Some turn to illegal activities such as the drug trade to secure a subsistence income while others fall prey to trafficking.

22. Despite the importance of migration for the Tajik economy, its largely irregular character and the absence of a comprehensive policy and mechanisms to manage, register and monitor the movements of people within and outside Tajikistan pose risks for the sustained livelihoods of families and for the protection of migrants, who are compelled to work in exploitative and hazardous conditions. Pre-departure and on-the-job training of migrants is lacking, and the existing law on migration and bilateral agreements with the Russian Federation and Kazakhstan do not ensure legal status and labour/social protection for most Tajik migrants.<sup>26</sup> It is nonetheless worth

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<sup>20</sup> World Bank, *Migration and Remittances Factbook, 2008*; *World Development Indicators database, 2008*. IMF, Tajikistan Country Report No. 08/197, June 2008. Media reports mention official remittances up to 47 per cent of GDP. See e.g. "Central Asia: Kyrgyzstan, Tajikistan and Uzbekistan confront financial disaster", *Eurasianet*, 10/11/08.

<sup>21</sup> Olimova, S. and Kuddusov, J. *Families of migrants in Tajikistan: Problems and ways of their solution. Analytical survey report*, ILO, Dushanbe, 2007. World Bank, "Policy note: enhancing the development impact of remittances", 2006.

<sup>22</sup> See "Notes for a strategy for the agricultural sector".

<sup>23</sup> See Olimova and Kuddusov, p. 77.

<sup>24</sup> *Ibid.*, pp. 70-71.

<sup>25</sup> The Ministry of Labour and Social Protection has undertaken various vocational training programmes, such as the National Centre for Adult Education established in March 2008.

<sup>26</sup> In this regard, the Government of Tajikistan requested that the Government of the Russian Federation agree to a quota for Tajik migrants in order to prevent illegal migration, apparently to no avail so far.



noting some progress in the area of policies/programmes, such as the adoption of a Programme of Foreign Labour Migration for 2006-2009 and the 2002 ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in addition to initiatives undertaken by international organizations to support migrant workers.<sup>27</sup>

### III. VIOLENCE AGAINST WOMEN

23. Violence against women in Tajikistan is not sufficiently acknowledged as a problem warranting public attention; therefore it goes largely unreported and unrecorded. While information on the diverse manifestations of the problem is scanty and anecdotal, its widespread acceptance in society, even by women themselves, is evident. Women's economic dependency, legal illiteracy and practices pertaining to marriages, residency and housing aggravate their vulnerability to violence.

#### A. Prevalence and forms of violence

##### 1. Violence within the family

24. Studies estimate that between one third to one half of women in Tajikistan regularly encounter some form of violence in the family, either by their husbands or other members of the husband's family.<sup>28</sup> In a 2005 population-based survey in Khatlon Oblast,<sup>29</sup> over one third of the women responded that their husbands had beaten them; 58 per cent reported experiencing either physical violence or sexual abuse, with around 20 per cent having experienced both types of abuse. There were no significant differences across districts, age groups, education levels, or work. A large portion of women applying to crisis centres complain about psychological/ emotional violence (56 per cent in 2005), and over 20 per cent about physical violence. Women victims of sexual violence, due to the taboo surrounding the issue, reportedly either do not come to the centres or, when they do, tend not to disclose the problem.

25. Abuse by in-laws, particularly the mother-in-law, is also common and an accepted phenomenon. The Khatlon survey showed that over 60 per cent of the women agreed that if a mother-in-law was angry with her daughter-in-law, she had the right to abuse her by swearing at her or confining her to the house. However, the survey revealed little physical violence by mothers-in-law (less than 5 per cent),<sup>30</sup> who are said to exercise indirect forms of control, including through emotional abuse and economic deprivation. While only a few of the women I spoke to mentioned they were physically beaten by their mothers-in-law, many underlined their subordinate position, which makes them "the slaves of their mother-in-law". For instance, a woman with a university degree in psychology explained that her mother-in-law forces her to work on the farm.

26. The extended patriarchal household and the age-sex status differentials, whereby young women occupy the lowest status, provide a fertile ground for abuse by mothers-in-law. With age, women may gain respect and be delegated patriarchal power, particularly in regulating the conduct

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<sup>27</sup> Such as the Information Resource Centre for Labour Migrants established by the International Organization for Migration.

<sup>28</sup> Women refugees, mostly from Afghanistan, are said to be similarly victims of domestic violence but lack access to any form of formal or informal support and protection mechanisms.

<sup>29</sup> Haarr, R. (2005), *Violence against women in marriage: A general population study in Khatlon Oblast, Tajikistan*, Social Development Group and Swiss Development Office.

<sup>30</sup> Haarr, R. (2007), "Wife abuse in Tajikistan", *Feminist Criminology*, Vol. 2, No. 3.

of the younger women in the household. While the extended family tradition is deep-rooted in Tajik society, the deteriorating standards of living and the small size of land allocated to each family has made it particularly difficult to build additional dwellings on the same land, hence forcing the families to live under the same roof, often under strenuous and stressful conditions.

27. Wives of migrants appear subject to additional abuse by their in-laws; including eviction from their house should their husband not send money, not come back or marry abroad. Sahar's story<sup>31</sup> is emblematic: after six years of marriage, her husband went to Russia without ever sending money or calling, and ended up marrying a Russian woman. The sister-in-law then exerted pressure on her mother to throw Sahar out of the house. With the assistance of a crisis centre, Sahar took the case to court and won the right to live at her in-laws' dwelling. However, her return was not well received; she is ignored by her in-laws and deprived of food and a plot of land to work on. As a result, she stays half of the week there and the other half with her parents, who are her main providers. This case also highlights problems emanating from residency/housing practices, discussed below.

## 2. Violence against girls

28. Nearly half of the population in Tajikistan is under 18, with 36.4 per cent under 14 (2007). There is no authoritative data on the nature and extent of violence against children and no systematic process or centralized database for registering cases. Nonetheless, research and observations from State, international and non-governmental organizations confirm the high levels of psychological, physical and sexual violence and exploitation against children generally, and girls to a larger extent than boys. Research shows, for instance, that 20 to 60 per cent of children experience violence in the family (with other findings specifying that 37 to 58 per cent experience psychological abuse at home), 23 to 50 per cent experience violence at school and other institutions, and 12 to 32 per cent of children experience and/or witness physical violence on the streets.<sup>32</sup>

29. Violence against children is generally tolerated by society, including by officials,<sup>33</sup> unless it leads to serious injuries. In a 2002 WHO study, 40 per cent of parents said that physical violence was an acceptable punishment for children, while 44 per cent of children said they would not denounce abuse, based on the belief that their parents had the authority to use violence as a form of punishment. A large majority of parents admit they use emotional force/abuse against their children, with 80 per cent saying they shout and curse them, over 30 per cent prohibiting children from leaving the house or playing.<sup>34</sup>

30. Girls are at particular risk of violence and maltreatment, although data on abuse against them is fragmentary. Two out of three girls reported that they feel more susceptible to violence in the home than boys.<sup>35</sup> It has been particularly problematic to address sexual abuse against girls, because of the lack of recognition of the problem within society, the fear among victims that they will be considered responsible and become ostracized, and the low incidence of cases reported or

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<sup>31</sup> In order to protect the identity of individuals, assumed names are used throughout the report.

<sup>32</sup> UNICEF, *Violence against children in Tajikistan: The capacity of service providers to identify, register, report and refer cases of violence against children* (2007), p. 5 (hereafter, UNICEF, "Service providers").

<sup>33</sup> Institute of Civil Servants Tajikistan and UNICEF, "Sociological survey of civil servants' perceptions of child abuse and neglect in Tajikistan", 2005.

<sup>34</sup> See for further data: UNICEF, "Violence against children in Tajikistan", *Child Research Digest* No. 6, 2007.

<sup>35</sup> WHO study, cited in UNICEF study "Service providers" .

brought to court. I met girls who were rape victims and who, due to mistreatment or rejection by their parents, ran away from home into the streets, where they became subject to exploitation and further abuse. These girls are not accepted into children's homes, and specialized institutions which can provide the assistance needed do not exist. As a result, such girls may be detained in hospital wards for long periods of time or placed in the "Special School", a closed institution for boys between ages 11 to 14 who have committed a criminal act or whose behaviour is deemed to be beyond parental control.

31. The story of Sana, a 14-year-old rape victim, is typical of the situation of the girls housed in the Special School. Sana ran away from her home in a village to Dushanbe to live with her aunt, with whom she sold food on the street. A woman she became acquainted with lured her to her house and sold her to three men. Sana lost consciousness at one point and when she awoke she was covered in blood and the men were gone. She managed to get out of the house and reached a policeman, who took her to the Temporary Isolation Centre for Minors. After explaining what happened, Sana was taken to the hospital where it was confirmed she had been raped. Following her testimony the police opened a criminal investigation, and a case was brought against the woman and the three men involved. The woman was convicted to 25 years of imprisonment, and the three men to 17 to 20 years' imprisonment. After two months of treatment in the hospital Sana was referred to the Special School by the Commission on Minors. Her parents do not want her because they feel that she has become "tainted" and a disgrace to the family.

### **3. Trafficking**

32. Girls and women are also vulnerable to trafficking and sexual exploitation outside Tajikistan, such as to the United Arab Emirates and the Russian Federation. Some 300 girls and women were trafficked to the United Arab Emirates in 2000. According to the International Organization for Migration (IOM), 107 victims of trafficking were repatriated from the United Arab Emirates from 2005 onwards, ensuing in 45 proceedings against traffickers, most of which resulted in conviction. Today, victims identified through support services and investigations are in fewer numbers,<sup>36</sup> although women and girls remain vulnerable to trafficking, given the continuing difficult socio-economic conditions in the country. IOM data shows that from June 2005 to March 2008, 136 victims were identified, among whom 105 victims of sexual exploitation. In early 2008, 60 persons had visited the IOM shelter in Dushanbe since its creation, while 34 minor victims of trafficking received assistance in the Khujand shelter from 2006 to early 2008.<sup>37</sup> Government data shows that, from March 2005 to August 2006, 123 victims were identified, resulting in the opening of 77 criminal cases.<sup>38</sup> In 2007, authorities reported 12 investigations, 19 prosecutions and 11 convictions.<sup>39</sup>

### **4. Suicides and murders**

33. Abused women and girls are at heightened risk of suicide. The Khatlon survey revealed that 70 per cent of women who had thoughts of suicide and 70 of those who actually attempted suicide

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<sup>36</sup> At the time of my visit, hardly anyone used the two shelters available to trafficked victims in Tajikistan.

<sup>37</sup> IOM, see [www.iom.tj](http://www.iom.tj).

<sup>38</sup> Presentation by Chief Aide to the Prosecutor of Sogdyisk oblast, Report to the international conference organized by the Inter-departmental Commission on the fight against trafficking and "Modar": "Preventing and combating trafficking", 2006.

<sup>39</sup> United States of America, State Department trafficking report, 2008.

reported experiencing physical violence from their husband. Other reasons for suicide are said to be abuse by in-laws, polygamy, early/forced marriage, or problems related to the husband's working abroad.

34. Though more men than women actually commit suicide, there are reports of an alarming number of suicide attempts by women through pharmaceutical overdoses, self-immolation or drowning as a way out of an oppressive life. Social and health professionals see these attempts as cry for help more so than desire to die.

35. While there is no comprehensive or countrywide data on the extent of women's suicides in Tajikistan, some sporadic data give a sense of the problem. The Committee on Statistics noted that "hundreds of women die from fire and flame accidents", with such deaths constituting 6 per cent of accidental deaths in 2005.<sup>40</sup> And 11 per cent of all deaths in 2005 were listed as suicides. From 2001 to 2004, 344 women took their own lives.<sup>41</sup> In 2007, 123 cases of suicide were registered in Khatlon, with 74 (60 per cent) having been committed by women. In the first half of 2006, 102 persons - among whom 39 women (38.2 per cent) - committed suicide in Sogd oblast and 26 attempted suicide.<sup>42</sup>

36. Article 109 on "Driving to suicide" of the Criminal Code can be used to prosecute an alleged violent abuser for his moral culpability for the suicide. There have been a few prosecutions under this article. Such cases are very difficult to prove as there are usually few witnesses other than the abuser's family members.

37. In other cases, women have resorted to killing their abusers. Many of the women detainees I met in the Nurek prison were convicted for murdering their partners, whether during a fight or in a premeditated manner. They were condemned to heavy sentences ranging from 7 to 20 years in prison. Imprisonment of women is particularly devastating for family maintenance and childcare. The Presidential amnesty which resulted in the release of most women detainees in 2006 did not include those women who committed murder. While recognizing the gravity of their crimes, women's criminality under situations of extreme abuse and violence needs to be treated with diligence, and their cases must be assessed in light of mitigating circumstances.<sup>43</sup>

## **B. Aggravating factors**

### **1. Social convention**

38. Many women are conditioned or pressured to remain silent under abusive conditions and made to believe that reporting violence would contravene societal values. Two recent surveys<sup>44</sup>

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<sup>40</sup> See "Women and men in Tajikistan", 2007.

<sup>41</sup> IRIN, "In-Depth: Our bodies-Their Battle Ground: Gender-based Violence in Conflict Zones", <http://www.irinnews.org/InDepthMain.aspx?InDepthId=20&ReportId=62834&Country=Yes>.

<sup>42</sup> "Alternative report of NGOs on the CEDAW Convention" (2006), (hereafter, "Alternative report").

<sup>43</sup> The "battered women" syndrome/defence may shed light into the circumstances in which a violent act was committed. Courts in a number of countries have acknowledged that battered women use force or kill as a way to defend themselves or respond to provocation. As a result, courts have given out more lenient sentences. See e.g. Thornton (No. 2) [1996] All ER 1023, *R. v. Kiranjit Ahluwalia* [1992], *R. v. Lavalley*, [1990] 1 S.C.R. 852.

<sup>44</sup> See "Women and men in Tajikistan", 2007, "Khatlon" survey, op. cit.

demonstrated the broad acceptance by the population of violence against women, in particular domestic violence. An overwhelming majority of women and men interviewed agreed that physical violence against women was justified for a number of reasons, such as if wives answered back or disobeyed, did not respect husband's relatives, or when a husband was angry with his wife. While, according to the Khatlon survey, more women than men accepted physical violence, there were no significant differences among women of various education levels and age. Acceptance of sexual violence was also significant, though less than of physical violence.

39. Furthermore, most women have little or no awareness of their rights or about national and international mechanisms for redress. Awareness-raising campaigns on violence against women conducted by national and international organizations have been limited in time and geography.<sup>45</sup> The media has so far shown little interest in covering issues related to women's rights, and legal aid provided by NGOs is insufficient. The situation seems particularly problematic in rural areas, where women have little access to information, legal aid or services.

## 2. Marriage practices

40. In the Tajik context, the legal status of a marriage is a crucial factor in providing women with access to some legal protection from abuse and safeguarding their socio-economic rights. In this regard, women's organizations have expressed concern about the increasing rate of unregistered marriages - both monogamous and polygamous, which is said to diminish women's access to entitlements.<sup>46</sup>

41. Religious marriages are not legally recognized by the secular laws of Tajikistan. Article 1 of the 1998 Family Code provides that only the marriages registered with the civil registry office, or ZAGS, are recognized by the State.<sup>47</sup> Therefore, provision under the Family and Civil Codes and the Constitution, which provide women and men equal rights in marriage and upon its dissolution, including the equal division of property and assets acquired during marriage, do not apply to couples without an official marriage certificate, leaving women in such unions in a vulnerable position upon divorce or the husband's death. A woman without a civil marriage certificate could also be evicted from her home, a situation confirmed by the large number of cases received by crisis centres and the Committee for Family and Women Affairs. She may nonetheless be authorized by court to remain at her ex-husband's place - upon proof that she and her de facto husband lived together and she contributed to the household. Women with children - provided the children are recognized by their natural father - may obtain greater entitlements to property, alimony and inheritance.

42. Reasons for the worrisome increase in unregistered matrimonies are varied. Reference was made to the 20 Somoni (about US\$ 5.80) registration fee for the official marriage as being a cause, but compared to other wedding costs such a sum is negligible. While the rising influence of religion has also been mentioned, 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.

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<sup>45</sup> For instance, the Swiss Cooperation Office has raised awareness of domestic violence through theatre plays, posters and TV programmes in Kurgan-Tyube area. The crisis centre in Khujand, with the OSCE, runs annual information campaigns on violence against women.

<sup>46</sup> Khegai, M., *Polygamy research in Tajikistan: Pilot research in Dushanbe and Khatlon*. Swiss Cooperation Office and "Traditions and modernity", 2002.

<sup>47</sup> See the Law on Civil Status, Section IV, State registration of marriage.

43. Women in unregistered marriages are said to be more vulnerable to being subjected to violence and abuse, and have more difficulty ending an abusive relationship due to lack of support, alternative housing and legal protection, compared to women in a civil marriage. A 1999 WHO survey found that 52 per cent of women in unregistered marriages, compared to 40 per cent of women in registered marriages, experienced sexual abuse; 67 per cent of women in unregistered marriages versus 51 per cent of women officially married experienced psychological abuse.<sup>48</sup> Many of the former, along with their children, are also most likely to be abandoned or evicted from their home by their de facto husband or his relatives.<sup>49</sup>

44. The rise in unregistered marriages is invariably accompanied by early and polygamous marriages. Evidence shows that girls are being married at an increasingly younger age, and often against their will. The legal age of marriage has also been reduced from 18 years in Soviet times to 17 (art. 13, Family Code), for both boys and girls. Under some circumstances, such as pregnancy, marriage may be concluded at 16. Marriages under the legal age are criminalized under the Criminal Code and cannot be registered officially. An unregistered religious marriage offers a way out for those wishing to wed their daughters at a young age. Early marriages - whether registered or not - have adverse impact on girls' physical and psychological development as well as their attendance in school and their acquisition of professional skills, thus limiting their life choices.

45. Similarly, although there are no exact figures, polygamy is also said to be on the increase since independence.<sup>50</sup> There 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.

46. Migration not only reduces the number of marriageable men but it also results in polygamous relations, as married migrant men reportedly often engage in extramarital relations abroad, eventually get married and establish new families.<sup>51</sup> This may have dire consequences for the well-being of the wife left in Tajikistan. Saidova's husband, with whom she was married for 14 years, worked in the Russian Federation. Not only did he not send money but he ended up settling in Russia with his new wife. He gave away the house where Saidova lived, and she was thrown out on the street. A court annulled the husband's decision and granted her the right to remain in the house. Upon appeal by the husband, the court authorized the sharing of the price of the house between the couple. As Saidova was responsible for raising their four children, the money granted by the court was not sufficient for her to live on. When I met her, she was appealing the decision and planned to file for divorce.

47. According to article 170 of the Criminal Code, polygamy is a criminal offence. The few cases that are prosecuted<sup>52</sup> are apparently handled as aggravating circumstance to other offences or are politically motivated. Government officials pointed to the practical and legal difficulties in prosecuting polygamous unions. It is only upon the complaint of one of the wives that polygamy

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<sup>48</sup> WHO (2000), *Violence against Women: Report on the 1999 WHO Pilot Survey in Tajikistan*.

<sup>49</sup> See report of the Committee for Women and Family Affairs, second quarter of 2008.

<sup>50</sup> The State Committee on Statistics estimated that in 2007 there were at least 25,000 women between the ages of 22 and 50 who were second wives.

<sup>51</sup> See Olimova, S. and Kuddusov, J.

<sup>52</sup> Thirty persons were brought to account (criminal liability) for polygamy and condemned in 2002, and 56 persons in 2003. (State CEDAW report, CEDAW/C/TJK, op. cit.)

could effectively be prosecuted. This is a counterproductive process in practice as the law only provides for the imprisonment of the husband, who is generally the main breadwinner of the family, and a risky option for the complainant who may encounter severe consequences from the other wives and relatives in general.

48. While recognizing the Government's apparent determination not to compromise the secular principles of the State, there is an apparent dilemma as the practice of polygamy continues and many women are left without any legal protection.

### 3. Residency registration and housing

49. Tajikistan inherited from the Soviet Union a compulsory system of civil residency registration - *propiska* - which is regulated by the 2007 Decree on the Passport System and administered by the Ministry of Internal Affairs. Although an administrative civil procedure, the *propiska* system gives rise to some entitlements to housing and is a way to protect people from eviction. This, however, is not problem-free.

50. Traditionally, upon marriage women move to the husband's paternal home, but it is not a legal requirement for them to change their residency so most women are said to retain their *propiska* at their paternal home. A reason for not changing residency may be the lack of awareness of the possible advantages such registration brings. In other instances, the groom's side may refuse to allow the bride to register residency at their place due to their reluctance to pay additional charges for communal services and grant her housing entitlements.<sup>53</sup>

51. 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. In the case that property was acquired during a registered marriage, upon divorce the wife is entitled to 50 per cent of it and other jointly acquired assets, and the location of her *propiska* becomes irrelevant. This option most effectively secures her rights. In most other cases the registration of residency in the actual place of residency allows a woman additional protection compared to the situation in which her *propiska* is elsewhere.

52. Frequently, the house is owned by the husband's relatives, often his parents. In such cases, upon divorce, 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.

53. Nonetheless, in such cases, the actual owner must ask any holder of a *propiska* in his/her dwelling for authorization to sell and find a mutual agreement. Should the *propiska*-holder refuse, the owner cannot sell the house as it would in practice result in the forcible eviction of the former. Problematically, courts do not seem able to prevent the owner from selling or, should the sale go ahead, to grant the *propiska*-holder compensation. Saraya was driven out of the house by her in-laws after her husband's death. She submitted a claim to the court to obtain the right to live at her

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<sup>53</sup> The Ministry of Internal Affairs will only register a residency provided the actual owner of the dwelling and all other adults who are registered there agree to it. (Decree on the Passport System, Section III.)

in-laws' place. During the court proceedings, her in-laws sold the house, and she had to bring another case to the court to have the sale of the house annulled. At the time of my visit, judicial proceedings were ongoing. Such practices do not appear to comprehensively protect the rights of *propiska*-holders and would warrant further examination.

54. Finally, while it appears relatively common that courts grant women the right to live in their ex-in-laws' dwelling - whether they hold residency there or not - as a protection from forced eviction, this may be the last option a woman would choose. The woman's unwanted presence, as such, only results in her being subjected to abuse and violence, and therefore women tend to go back to their parents' home.<sup>54</sup> There are cases, although rare, whereby a woman may be granted a sum of money by the court if her former in-laws objected to her living with them. Reports indicate that women with residency elsewhere would not be able to make similar claims before the court.

#### **IV. RESPONSES TO VIOLENCE AGAINST WOMEN**

55. This chapter focuses on the existing gender equality framework and responses by the Government and non-governmental actors to violence against women and girls, highlighting existing gaps in laws and practices, as well as recent initiatives.

##### **A. Legislative framework**

56. The Government of Tajikistan has ratified numerous international human rights treaties,<sup>55</sup> including the Convention on the Elimination of All Forms of Discrimination against Women, all of which form an integral part of the legal system of the Republic (as per article 10 of the Constitution). Gender equality is recognized in the Constitution, and women and men are granted equal rights under many laws, such as the Family and Civil Codes. Policies and programmes have been adopted with the aim of increasing women's status in society and ensuring gender equality between women and men.

57. Among others, the "Basic Directions of State policy to ensure equal rights and opportunities for men and women in Tajikistan for the period 2001-2010", approved by Decision 391, sets up the framework for gender equality. It was complemented in March 2005 by a Law on Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights, which includes a definition of discrimination compatible with the Convention on the Elimination of All Forms of Discrimination against Women.

58. There is no specific law on violence against women or on domestic violence, although civil society has been advocating for the latter since 2003. In recent years, the Inter-coordination Council has been discussing a draft "Bill on Social and Legal Protection against Domestic Violence", but some opposition to its adoption remains. Although I was given assurances during my visit that the draft bill would soon be presented to Parliament for adoption, at the time of writing, there was no sign of such development.

59. The main objections to the law apparently pertain to the resources required for its implementation, and that it repeats provisions already covered in other laws, in particular the

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<sup>54</sup> They generally cannot afford to buy or rent a flat/house on their own.

<sup>55</sup> See CEDAW State report, pp. 3-6, for instruments ratified and programmes/policies on gender equality.



Criminal Code and the Law on Social Services.<sup>56</sup> Many of my interlocutors argued on the contrary that the law is crucial to increase victim protection and the prosecution of all forms of violence against women in the family, including psychological violence. More importantly perhaps, a specific law on domestic violence would highlight the particular conditions under which women are victims of violence and help shed light on the need to address women's low status in society in this regard.

60. The Government and civil society could take heed of comparable initiatives in the area of trafficking, in particular the adoption in 2004 of the Law on the Fight against Human Trafficking, and in 2007 of the "Standard regulation on support and assistance centres for victims of trafficking", and the creation of the Inter-ministerial Commission on Combating Trafficking in Persons, which have undoubtedly resulted in positive results, including convictions of traffickers.

61. While various provisions under the Criminal and Family Codes can be used to address violence against children, such as chapter 20 of the Criminal Code on "crimes against family and minors" and provide sanctions against parents/step-parents in the event of abuse/neglect of a child in the Family Code, many of my interlocutors deplored the absence of specific regulations to comprehensively address such violence. Encouragingly, the Government has adopted a National Plan for Protection of the Rights and Interests of the Child (2003-2010), which recognizes the need to protect children from violence and deplores the lack of measures in this regard.

## **B. Institutional framework**

62. Gender issues are supervised by a deputy prime minister who is also the Chairperson of the Coordinating Council on the Prevention of Violence against Women. The Council was established in April 2006 to coordinate prevention activities and legislative reform on violence against women. It is composed of representatives from NGOs and key ministries. It has a coordinating role and no budget of its own.

63. The Committee for Women and Family Affairs, established in 1991, is responsible for implementing and monitoring State policies/programmes on gender equality and reports to the Deputy Prime Minister responsible for Gender Affairs. The Committee is understaffed and lacks resources to function as an effective women's machinery.<sup>57</sup> It thus relies on NGOs and international agencies.

64. Generally, the capacity of State officials to address issues pertaining to violence against women and girls is weak. A few Ministries, such as those of Internal Affairs and Health, in cooperation with international organizations, have been conducting staff training and preparing guidelines on how to deal with victims of domestic violence.<sup>58</sup> However, only a small proportion of the staff has been reached.

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<sup>56</sup> See below for a discussion on the Criminal Code. The Law on Social Services, adopted in January 2008, regulates the provision of services for people "in difficult situations/violence", mainly women and children.

<sup>57</sup> At the time this country mission took place, the Committee had only one or two staff in its provincial offices (oblast), while other similar committees have several additional staff.

<sup>58</sup> Such as the 2006 methodological guidebook from the Ministry of Internal Affairs on ways to deal with domestic violence.

65. The National Commission on Child Rights, established in 2001 to implement the Convention on the Rights of the Child and coordinate policies and activities of government bodies and NGOs working on children's issues, is said to have limited capacity to manage and oversee child protection and welfare services.<sup>59</sup>

### C. Reporting and prosecution

66. There is underreporting of violence against women and girls. Revealing domestic problems to the outside or seeking divorce are considered inappropriate behaviour for women.<sup>60</sup> Lack of a protective infrastructure and practices by law enforcement and judicial bodies further hamper better reporting.

67. The lack of specialized units in police stations that deal with cases of violence against women constrains the reporting of cases. Another problem is the lack of mechanisms under the Police Law that would enable the police to protect women who report domestic abuses, especially with respect to issuing restraining or protection orders. The level of cooperation between the police and crisis centres is also less than desirable, although some crisis centres systematically provide information on domestic violence cases to the local police. There are a few specialized police departments which formally record and examine claims of domestic violence, but these remain exceptions.

68. Often, the police may attempt to reconcile the victim and the perpetrator, instead of pursuing its investigation. Law enforcement bodies deny they do so, arguing that the problem lies with victims themselves, who often withdraw their statements and strive to find an agreement with their abuser, possibly because of their strong economic and social dependency on him. As investigations are based on statements given by victims or witnesses, if a victim insists that an act of violence against her was an accident the police cannot conduct an investigation against the will of the victim, unless other strong evidence is available.

69. Investigation and prosecution of domestic violence appears limited to the most egregious forms of physical or sexual violence.<sup>61</sup> One of the reasons is the lack of a specific definition of domestic violence and related penalties and protective measures in existing legislation. The Criminal Code provides for penalties on hooliganism, systematic humiliation, minor to serious bodily harms, rape, premeditated murder, all used by the police and the Procurator's Office to address cases of domestic violence. Only serious bodily harm is prosecuted by the Procurator's Office, and the threshold is very high.<sup>62</sup> Less severe harm, humiliation or hooliganism can be the object of fines but will not give rise to prison sentences or protection measures for victims. Further, the Criminal Code does not mention psychological/emotional violence, which therefore cannot be prosecuted.

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<sup>59</sup> UNICEF report, "Service providers", p. 3, op. cit.

<sup>60</sup> In 2006, there were 52.7 divorces per 1,000 marriages. "Women and men", op. cit., p. 60. This figure can be misleading as it reflects only the termination of official marriages.

<sup>61</sup> A survey of judiciary practice showed that, among the registered crimes committed against women, "deliberate assault and battery and beatings" (75.2 per cent) and "rape and attempt to rape" (11.9 per cent) prevail. One fourth of the victims had experienced violence from family members, predominantly the husband. See Bozrikova T., *Court Practice on Violence against Women: Realities and Peculiarities*, 2004.

<sup>62</sup> A forensic examination is carried out to determine the category of injury (light/medium/ strong). I was told that "serious bodily harm" qualifies in case a person is not able to work for several days or is made disabled; an aggravating factor would be the pregnancy of the victim.

70. An encouraging initiative, which should offer better redress to women victims of domestic violence, is the plan to establish by 2010 judicial chambers or “collegiums” on family cases in the courts of the Gorno-Badakhshan Autonomous Province, Dushanbe city, and in the Supreme Court of the Republic of Tajikistan.<sup>63</sup>

71. While there is mandatory reporting by health professionals of cases of domestic violence - a measure considered by some as a deterrent for some women to seek help from health services - there is no specific diagnostic protocols and procedures for documenting cases of child abuse. A study by UNICEF revealed that most State bodies do not adequately identify, report and refer cases of violence against children.<sup>64</sup> Since 2003, pilot “child rights departments” have been set up in selected towns, offering child protection services and investigating/registering cases. In the absence of a legal definition of violence against children, established penalties for offenders and official protocols for reporting, registering and responding to cases of violence against children, these departments are limited in their ability to address such violence.

#### **D. Community-based mechanisms**

72. Rather than turning to the police or courts, many women contact local government offices (*khukumats*), “*mahallah* (neighbourhood) committees” (self-governing bodies within a community) or religious authorities to settle cases of domestic violence or property and financial disputes. While their responses vary, these actors generally offer counselling and mediation, with the aim to reconcile the couple. Traditionally, *mahallah* committees and *khukumats* were male dominated, but many of them now have female members or women’s committees, which is said to have a positive effect on the outcome of a case and women’s willingness to seek their help.

73. Some of my interlocutors have suggested that, within the Tajik context, *mahallah* committees and religious authorities in particular could play a useful role in addressing violence within the family. In this respect, the cooperation between crisis centres and *mahallah* committees in Khujand and Kurgan Tyube is promising. The committees refer women in difficulties to crisis centres; give information on the circumstances surrounding the violence; and follow up cases. Some mullahs are involved in projects aimed at preventing violence against women and use the occasion of religious gatherings to stress Islamic principles of respect within the family.

74. The impact of these religious and community leaders on addressing violence against women has been mixed so far. Their involvement in this regard could be explored and encouraged, provided that victims’ protection and access to justice are not compromised.

#### **E. Support services**

75. Non-governmental organizations provide essential support services for women victims of violence and abuse. They manage most of the dozen of crisis centres in the country, as well as hotlines, some under the coordination and in cooperation with the Committee for Women and Family Affairs. The crisis centres offer psychological and social counselling on issues pertaining to domestic violence, property, housing and divorce. Many of them now offer legal advice, acknowledging the significant knowledge gap in this respect. These centres are insufficient in

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<sup>63</sup> Plan of Action for the implementation of judicial reforms, announced by Presidential decree, June 2007.

<sup>64</sup> UNICEF, “Service providers” report, op. cit.

number and are not accessible to women in remote areas. They also lack human and material resources and infrastructure. They depend on donor funding and their sustainability is at stake.

76. There are two shelters for victims of trafficking in Tajikistan, but only one for victims of all other types of violence, located within the crisis centre of Khujand since 2005; 154 women had used the shelter up to May 2008, because of domestic violence, rape, or housing and other personal crises. The shelter offers six beds only as it cannot afford larger housing facilities. At the same time, the health sector is neither adequately equipped nor trained to offer appropriate medical or psychosocial services to victims of violence. There is also a lack of long-term housing or programmes which would enable women to start leading an independent life.

77. There is no institution in Tajikistan for children victims of abuse, and none that provides specialized assistance for girl victims. Instead, children are placed along with other abandoned, neglected and criminal children in poorly run State institutions, as discussed earlier in this report.<sup>65</sup> A planned “girls’ support centre”,<sup>66</sup> which would offer psychosocial and residential services for girls at risk and victims of sexual abuse/violence, will considerably improve the situation.

## F. Statistics and data

78. Government bodies such as the Ministry of Internal Affairs and the Judicial Council gather statistics on offences committed, although these do not specifically refer to violence against women or domestic violence, nor do they mention who the victims are or their relationship with their aggressor. Within the State programme on equal rights and opportunities the Government committed itself to set up a department within the Ministry of Internal Affairs to collect and analyse data on violence against women, but the proposal has not been implemented yet. Data compiled by the State Committee on Statistics is limited to information on some crimes such as rape and data from crisis centres.<sup>67</sup> There is also no centralized and systematic process/database for recording cases of violence against children.

79. NGOs have made efforts to compile comprehensive data on the types of violence addressed through crisis centres.<sup>68</sup> Surveys and studies have been conducted with the support of donor agencies and international organizations. Yet there is no centralized collection of data that could be provided to government bodies.

## V. CONCLUSIONS AND RECOMMENDATIONS

**80. Any assessment of violence against women and women’s rights in Tajikistan needs to bear in mind the continued challenges the country has faced since independence, with respect to the economic and social transition, high levels of poverty, migratory flows and the remnants of its civil war. Despite significant economic growth, much of the population resorts to subsistence farming and migration to make ends meet.**

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<sup>65</sup> Ibid.

<sup>66</sup> An initiative of the National Committee on Women and Family Affairs, the National Commission on Children’s Rights and the Ministry of Education, in cooperation with UNICEF and the Children’s Legal Centre of the United Kingdom.

<sup>67</sup> See “Women and men in Tajikistan”, op. cit.

<sup>68</sup> See NGO “Alternative report”, op. cit.

81. The consequences of these challenges have been particularly dire for women. Although gender equality is guaranteed in law and policy, the gains achieved during the Soviet era have eroded. The resurgence of patriarchal discourses and practices, often articulated in religious overtones, have placed an additional burden on women.

82. As a result, women's subordination has deepened, increasing their susceptibility to abuse and violence, which is experienced in silence and condoned by society at large. Lack of a protective infrastructure, women's legal illiteracy and issues pertaining to marriage registration, residency, and the rise of early and polygamous marriages further aggravate their vulnerability to abuse and prevent them from escaping it.

83. Women's access to justice and their protection from violence have to date been inadequate. Besides long-awaited improvements in law and judicial practices, other measures are needed to address the broad tolerance of violence within society and support women's empowerment to be free from abuse.

84. In light of the above, I would like to make the following recommendations to the Government of Tajikistan, many of which are relevant to international organizations and donor agencies:

(a) **Women's empowerment and gender equality:**

- Strengthen the institutional capacity of the Committee for Women and Family Affairs with enhanced political authority and sufficient human and financial resources at national and local levels
- Expand the mandate of the Ombudsperson's office to include the promotion of women's rights and elimination of violence against women
- Establish judicial chambers on family matters, with the mandate to examine issues such as divorce, property and child alimony in light of the Convention on the Elimination of All Forms of Discrimination against Women
- Encourage the media to play an active role in promoting women's rights and avoid reporting that would perpetuate gender stereotypes and prejudice
- Promote the value of girls' education among parents, teachers, and girls themselves, including by funding special programmes in areas with low schooling rates for girls, increasing scholarships for girls to attend higher education
- Amend the Law on Education to raise the grade of compulsory education from 9 to 11
- Prioritize vocational training programmes for women and girls who are particularly marginalized, abandoned and victimized to abuse
- Ensure the rights of rural women to land use and management by providing them with legal and business training and simplifying the process of registration of private farms
- With support from international organizations, strengthen and systematize existing policies/programmes on labour migration, including its gendered consequences, and

develop training and support system for women left behind as well as women migrants

**(b) Elimination of violence against women and girls:**

- **Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women**
- **Adopt the Bill on Social and Legal Protection against Domestic Violence, including provisions for protection and restraining orders, and provide adequate funding and instructions to relevant State bodies for its implementation**
- **Treat violence against women as a criminal offence, and hence investigate and prosecute them ex officio**
- **Establish specialized female law enforcement units**
- **Strengthen cooperation between the police and crisis centres through, for instance, the signing of a Memorandum of Understanding and instituting referral systems at district/national levels**
- **Ensure that adequate funding for crisis centres is provided, and increase the number of shelters, bearing in mind geographical coverage**
- **Establish centres that provide psychosocial, legal and residential services to girls under 18**
- **Adopt protocols to stipulate and regulate the procedures to be taken by State bodies to report, register, respond to and refer cases of violence against children**
- **Conduct and support awareness-raising campaigns on domestic violence and women's rights, which specifically target religious and community leaders, girls and boys, men, and women particularly in rural areas**
- **Incorporate modules on the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and national provisions on gender equality and domestic violence in the programmes of the Military Academy and other public service training institutions, including the judiciary**
- **Review sentences against women detainees who murdered their partners because of domestic violence, taking into account the mitigating circumstances around their crime**

**(c) Marriage practices:**

- **Amend the Family Code to increase the minimum legal age of marriage for women and men to 18, in line with the Convention on the Rights of the Child and general recommendation 21 of the Committee on the Elimination of Discrimination against Women**

- **Issue instructions to religious leaders, in cooperation with the Council of Ulema, to keep a written record of religious marriages performed and to conduct religious marriages only where proof of civil marriage is made available**
  - **In cooperation with national and international organizations and religious leaders, conduct awareness-raising campaigns on the importance of civil registration of marriages, particularly in rural/remote areas**
  - **Lower marriage registration fees or offer compensation for the poorer segment of the population**
  - **Establish a centralized database for the civil registration of marriages**
  - **Cooperate with Governments of Tajik-migrant receiving countries in taking measures to prevent polygamous marriages across borders**
- (d) Residency registration and housing:**
- **Raise awareness among the population, in particular women, of the importance of registering their residency at the place they actually live**
  - **Include in the Housing Code or the Law on Domestic Violence provisions to assist women victims of violence to escape violent relationships, such as through the provision of financial compensation or alternative housing**
- (e) Statistics and research:**
- **Compile specific data on violence against women, especially domestic violence, for instance through the classification of domestic violence as a separate crime in police and prosecution records, and the introduction of a specific module on violence against women in surveys**
  - **Set up a department for the reporting of complaints about domestic violence and management of related statistics within the Ministry of Internal Affairs, as foreseen in the State Programme on Equal Rights and Opportunities**
  - **Strengthen exchange of data between crisis centres and government bodies**
  - **Gather data on the types of abuses faced by girls under age 18**
  - **Promote and support nationwide research on women's status, including domestic violence, trafficking, suicides, marriage practices, and access to housing**
  - **Develop a comprehensive database on migration, including by adding a module in the forthcoming national census**

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