

ANALYSIS OF AMENDMENTS TO TURKMENISTAN'S DIVORCE LAW

Turkmenistan recently amended its law to extend divorce delays, a measure that could place women and girls experiencing violence at greater risk. At the request of Progres Foundation, The Advocates for Human Rights prepared this memo to evaluate the various amendments against international human rights standards and best practices.

The most dangerous time for a woman in an abusive relationship is when she decides to leave. Removing protections and placing obstacles to leaving an abusive relationship places victims and children in further danger. According to a 2023 report by UN Women, the risk of homicide is heightened during the time of estrangement or post-separation.¹ A Portuguese study corroborating this finding found that the majority of women, who experienced intimate partner violence, were murdered by ex-partners within a year of separation.² Providing victims with multiple effective and appropriate protections in place upon separation from their abuser, which may include ensuring expediency of proceedings or providing for an order for protection, may help enhance their safety.

1. Recent changes to the turkmenistan divorce law

On March 30, 2024, Turkmenistan's Parliament amended both the Turkmenistan Family Code and the Civil Procedure Code. The impact of these amendments makes it more difficult to obtain a divorce.³ These amendments also will make it more dangerous for a spouse who has been the victim of domestic violence to obtain a divorce from their abuser.

Family Code

The Family Code now requires the court handling the divorce to grant a three-month period for spousal reconciliation. If the spouses have not reconciled in that three months, the court may then extend that reconciliation period for an additional six months if the court believes the "possibility of preserving the family has not disappeared."⁴ The 2024 amendments thus extend the reconciliation period by an additional three months without providing any exception for domestic violence cases. A spouse now faces the possibility of a nine-month waiting period aimed at reconciliation before they can secure a divorce. Moreover, Family Code, Article 26, clause 5.1 now provides for an easier process to drop a request for a divorce, increasing the barriers for those seeking safety from an abusive marriage.⁵

Finally, 2024 amendments to the Family Code eliminated Article 26, clause 4(3), which allowed for the dissolution of marriage in the absence of one of the spouses.⁶ This also creates obstacles that once did not exist. A man whose wife is seeking a divorce may simply make himself absent from hearings or avoid detection, and the marriage will remain binding.

¹ UN Women, *Gender-related Killings of Women and Girls*, 2023, available at [Microsoft Word - Femicide_report_final_2023.docx](#).

² <https://www.sciencedirect.com/science/article/abs/pii/S1752928X13002540?via%3Dihub>

³ Laws of Turkmenistan of 30 March 2024, Family Code, Articles 25-27, Bulletin of the Mejlis of Turkmenistan, 2024, No. 1; Laws of Turkmenistan of 30 March 2024, Civil Procedure Code, Articles 149, 171, 180, Bulletin of the Mejlis of Turkmenistan, 2024, No. 1, 2, 3.

⁴ Turkmenistan Family Code, Article 27.

⁵ Turkmenistan Family Code, Article 26, Clause 5.1.

⁶ Turkmenistan Family Code, Article 26.

Civil Procedure Code

The amendments to the Civil Procedure Code now require spouses who desire to divorce to state, in the divorce petition, the “feelings and circumstances leading to the dissolution,” and explain why the spouses cannot live together and preserve the family.⁷ The Code further requires the judge, when deciding whether to grant the divorce, to interview the parties, to consider the family’s living conditions, relationships with family members, best interests of the children, and public involvement with the case, and to take “necessary measures to reconcile the spouses.”⁸ This, in effect, puts the judge in the position of being both a marriage counselor and the arbiter of the law. This creates an imbalance of power among parties, potentially affecting judicial officers’ objectivity as neutral arbiters of the law and risking bias in the case. Personal participation in the divorce proceedings is now mandatory for both spouses, except where a spouse is abroad.⁹

2. Delay of a Divorce by a “Reconciliation” or “Cooling Off” Requirement Exposes Women who have Experienced Domestic Violence in Their Marriage to Greater Physical and Mental Harm, and, Potentially, to Death.

Prolonging a marriage via a mandated reconciliation or cooling off period in cases where domestic violence exists increases the danger that the violence will continue and even increase. A study on divorce delay found that “making divorce more difficult is likely to (a) increase conflict and (b) perpetuate the conflict between high-discord couples.”¹⁰ This finding indicates serious risks for victims of domestic abuse. It is well-documented that leaving an abusive relationship increases the survivor’s risk of increased violence, homelessness, and poverty.¹¹

International standards recommend states take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled, or dissolved without undue financial or administrative burden placed on the victim.¹² The UN Women Virtual Knowledge Centre to End Violence against Women urges legislative drafters to “eliminate any compulsory waiting periods for divorce aimed at facilitating reconciliation between parties in a forced marriage.”¹³ While these standards address forced marriages, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages calls for marriage to require the free and full consent of both intending spouses and grant them equal rights as to marriage and its dissolution.¹⁴ Once a woman has filed for a divorce, the element of free and full consent to marriage is arguably no longer present, rendering these standards applicable to prolongation of the unwanted marriage.

⁷ Turkmenistan Civil Procedure Code, Article 149, clause 2.1.

⁸ Turkmenistan Civil Procedure Code, Article 171, clause 2.1.

⁹ Turkmenistan Civil Procedure Code, Article 180, clause 3.

¹⁰ E. Moore, Delaying Divorce: Pitfalls of Restrictive Divorce Requirements, *Journal of Family Issues* 1-29, 2015, available at <https://open.uct.ac.za/server/api/core/bitstreams/35f7287f-d886-4369-9f39-44e38d0aed45/content>

¹¹ J. Bradshaw, E. Gutowski, K. Nyenyezi, *Intimate Partner Violence Survivors Perspectives on Coping with Family Court Processes*, National Library of Medicine, Sage Journals (2023), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10666492/>

¹² Article 32 of the Istanbul Convention, adopted by the Council of Europe and opened for signature in May 2011.

¹³ UN Women, “Annulment of a Forced Marriage and Divorce,” accessed on Nov. 19, 2024, <https://endvawnow.org/en/articles/636-annulment-of-a-forced-marriage-and-divorce.html>

¹⁴ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted by General Assembly Resolution 1763 A (XVII) in Nov. 1962, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-consent-marriage-minimum-age-marriage-and>

A mother separating from an abusive husband must navigate custody and parenting arrangements with her abuser, often face-to-face in a courtroom.¹⁵ Prolonging the divorce and court processes also increases the danger of abuse for the couple's children. Children exposed to domestic violence are at a significantly higher risk of experiencing physical and emotional abuse once divorce proceedings are started.¹⁶ According to one study, "children exposed to domestic violence are more likely to suffer from anxiety, depression and post-traumatic stress disorder compared to their peers from non-violent homes. These children live in a state of constant fear and uncertainty, which can impede their ability to form healthy relationships and trust others."¹⁷ A recent UNICEF report on Turkmenistan indicated that 25.5% of children witnessed a beating, and 5.9% of women reported that their partners also harmed children.¹⁸ Furthermore, the report indicated that 61.3% of mothers had children from the ages of five to 12 exhibiting behavioral issues like nightmares, withdrawal, and aggressiveness.¹⁹ Ultimately, divorce waiting periods disproportionately impact women, who make up the vast majority of domestic violence victims, and can have devastating consequences, particularly for those in abusive relationships. In over 80% of the cases in which women seek help from abusive relationships, they do so at a point when they are unable to endure the abuse any longer,²⁰ with divorce as their last resort to stay safe. Such delays prolong the emotional and financial strains, and they expose women and their children to increased abuse, hindering their ability to protect themselves and move on.²¹

Numerous cases have been published globally demonstrating how prolonging a divorce proceeding increases the risk of danger to the abused spouse. In a case brought against Russia before the European Court of Human Rights, one of the plaintiffs, Ms. Petrakova, had been physically and emotionally abused by her husband for years. After she filed for divorce, the Russian court ordered a three-month reconciliation period over Ms. Petrakova's objections. Ms. Petrakova moved out of the house with their two children during the "reconciliation" period. Nevertheless, the violence against her and her children escalated with numerous reported episodes of assault, battery, forced sexual contact, and death threats.²² Likewise, a

¹⁵ J. Bradshaw, E. Gutowski, K. Nyenyezi, *Intimate Partner Violence Survivors Perspectives on Coping with Family Court Processes*, National Library of Medicine, Sage Journals (2023), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10666492/>

¹⁶ First Focus on Children, "Beyond the Veil: The Impact of Domestic Violence on Children and the Danger of Ending No-Fault Divorce," accessed Nov. 19, 2024, <https://firstfocus.org/update/beyond-the-veil-the-impact-of-domestic-violence-on-children-and-the-danger-of-ending-no-fault-divorce/>

¹⁷ First Focus on Children, "Beyond the Veil: The Impact of Domestic Violence on Children and the Danger of Ending No-Fault Divorce," accessed Nov. 19, 2024, <https://firstfocus.org/update/beyond-the-veil-the-impact-of-domestic-violence-on-children-and-the-danger-of-ending-no-fault-divorce/>

¹⁸ UNICEF, *Situation Analysis of Women and Children in Turkmenistan*, 2024 (Nov. 2024), 10, accessed March 4, 2025, <https://www.unicef.org/turkmenistan/media/4801/file/%20SITUATION-ANALYSIS-of%20Women-and-Children-in-Turkmenistan-eng.pdf.pdf>

¹⁹ *Ibid.*

²⁰ Institute of State, Law and Democracy of Turkmenistan, State Statistics Committee of Turkmenistan, Ministry of Health and Medical Industry of Turkmenistan, and UNFPA, *Health and Status of a Woman in the Family in Turkmenistan: Report on the results of the national sample survey*, (2021), 31-34, accessed Dec. 23, 2023, https://turkmenistan.unfpa.org/sites/default/files/pub-pdf/report_health_and_status_of_a_woman_in_the_family_in_turkmenistan.pdf

²¹ Zachary Willis, *States Contemplate Changes to Divorce Laws from All Angles*, University of Denver, 22 June 2023, available at <https://iaals.du.edu/blog/states-contemplate-changes-divorce-laws-all-angles>

²² *Case of Tunikova and Others v. Russia*, Nos. 55974/16, 14/03/2022, European Court of Human Rights (Third Section), available at <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-13522%22%7D>

different plaintiff in the case, Ms. Gracheva, filed for divorce after numerous reports of domestic violence to the police. The Russian court set a three-month reconciliation period. Despite moving to live with her mother, her husband continued to assault and stalk her during the reconciliation period. In the final incident, her husband kidnapped her and drove to a remote area where he used an axe to cut off both of her hands.²³

Reconciliation or cooling off periods can lead to the most extreme form of violence. In 2020, China implemented a new divorce law that requires a minimum 30-day “cooling off” period despite objections by Chinese women’s organizations that it would be dangerous for victims of domestic violence. Less than a year later, a woman who had been in a violent marriage and who had filed for divorce was killed by her husband during the cooling-off period.²⁴ In Uzbekistan, abused women cannot get a divorce without a certificate from the Mahalla Committee (neighborhood associations operating as the lowest rung of local government), whose goal is to preserve the family and keep divorce statistics low. Without that certificate, which can take months to get, a court will not grant a divorce.²⁵ Given the difficulty in obtaining a divorce, abused women have killed their abusers as a last resort. In one case, a husband physically and emotionally abused his wife for years, in addition to sexually abusing her son for two years. Ultimately, fearing there was no way out of the marriage, the woman resorted to killing her husband.²⁶

For women who experience domestic violence in their marriage, prolonging the period for divorce and forced reconciliation exposes them to increased violence and potentially death. Many countries that have divorce reconciliation or cooling-off periods have acknowledged this and adopted safeguards for abused women. For example, jurisdictions have adopted into law remedies for domestic violence victims, such as: protection orders or no contact orders; higher and more effective penalties against domestic violence; effective enforcement of criminal and domestic violence laws as well as habeas corpus orders; income support for the abused wife; and various types of social services offered to the victim and her children including shelter, legal aid, living subsidies, medical and psychological treatment and the like. Without these types of safeguards, domestic violence victims will only be further victimized by a delay in obtaining a divorce.

3. Turkmenistan Provides Inadequate Legal Protections for Abused Women Seeking a Divorce.

Despite legislative developments aimed at protecting women in abusive marriages, women in Turkmenistan lack adequate legal protection from violence and harassment, particularly domestic violence. Turkmenistan’s Constitution, Article 29, ensures women’s equality by punishing violations of equality based on gender.²⁷ Additionally, Article 22(2) of the Law of Turkmenistan on Equality and Equal Opportunity for Men and Women guarantees protection from physical and psychological violence in families while clause 1 states that men and women “enjoy equal rights upon entering into marriage, during

²³ Case of Tunikova and Others v. Russia, Nos. 55974/16, 14/03/2022, European Court of Human Rights (Third Section), available at <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-13522%22%7D>

²⁴ Josh Rudolph, *The First Woman to Die by the Divorce “Cooling Off Period,”* China Digital Times, Jan. 1, 2021, available at <https://chinadigitaltimes.net/2021/01/translation-the-first-woman-to-die-by-the-divorce-cooling-off-period/>

²⁵ Institute for Policy Research, “Divorce System Works Against Uzbek Women,” accessed Nov. 19, 2024, <https://iwpr.net/global-voices/divorce-system-works-against-uzbek-women>

²⁶ Niginakhon Saida, *Pushed to the Edge: Why Women Kill in Uzbekistan*, The Diplomat, Oct. 18, 2024, <https://thediplomat.com/2024/10/pushed-to-the-edge-why-women-kill-in-uzbekistan/>

²⁷ CONSTITUTION OF TURKMENISTAN, Art. 29, 2016, available at <https://minjust.gov.tm/ru/hukuk/merkezi/hukuk/1>

the period of marriage, and in the event of its dissolution.”²⁸ Article 3.2(8) of the Family Code of Turkmenistan prohibits any form of violence against any family member.²⁹ Despite these legal provisions, the various codes and infrastructure lack comprehensive domestic violence legislation, specialized courts, civil protective orders, or criminalization of marital rape.

Currently, neither the Criminal Code nor the Administrative Code provides adequate protection for victims of domestic violence generally, or, specifically, for victims who seek to leave an abusive spouse. According to the recently issued commentary by The Advocates outlining specific ways to strengthen the Turkmen Criminal Code, the criminal laws do not state that domestic assault is a distinct crime, including marital rape as well as low-level assaults that involve less severe injuries (e.g., bruises, cuts, burns, etc.) or threats of bodily harm. Moreover, the laws and policies do not make clear that law enforcement and prosecutors are obligated to pursue all cases of domestic violence, including those involving low-level injuries or threats of bodily harm.³⁰ Nor do they ensure that crimes involving domestic violence are treated as seriously as other crimes. Unlike many jurisdictions that increase criminal penalties for repeated domestic violence offenses, Turkmenistan’s laws and policies are ambiguous. As a result, domestic violence claims often are not investigated or charged and abusers are treated lightly if at all.

Testimonials shared via the Progres Online Survey on Domestic Violence recounted how one victim had experienced repeated physical, emotional, economic, and at times, sexual violence. The victim reported “various injuries: bruises, a broken finger, lip wounds, pulled hair” and “casual death threats and non-casual threats of dishonor and shame when he felt I was on the brink of leaving him.”³¹ Yet Turkmenistan’s current legislation does not criminalize most of this conduct or provide adequate protection for an individual in this situation who wants to leave the relationship.

Additionally, neither the Administrative Code nor the Criminal Code provide for an order for protection or no contact order in the case of domestic violence. A woman seeking to end an abusive marriage is at a heightened risk of increased violence and abuse by her spouse. To delay the divorce for a reconciliation period without providing a safeguard, such as an order for protection or an order requiring the abuser to stay away from her, only prolongs the potential for abuse and exposes the woman and her children to greater injury and possibly death.

Women in abusive marriages who file for divorce also cannot dependably rely on the police to keep them safe from their abusive spouse. Based on testimonials shared via the Progres Online Survey on Domestic Violence, Turkmenistan’s lack of effective laws and institutional capacity results in infrequent interactions with police and other responders to provide protection from the violence.³² In one of the few reported interactions with the police, the police did intervene to stop the violence but hesitated to take the lead on the case. Instead, the police left it to the victim to file the case. The victim stated, “Their actions were not

²⁸ Law of Turkmenistan on Equality and Equal Opportunities for Men and Women [Gazette of the Mejlis of Turkmenistan, 2015, No. 3, Art. 98], available at <https://minjust.gov.tm/ru/hukuk/merkezi/hukuk/304>

²⁹ Family Code of Turkmenistan, 2012 [Gazette of the Mejlis of Turkmenistan, 2012, No.1, Art.9], available at <https://minjust.gov.tm/ru/hukuk/merkezi/hukuk/617>

³⁰ Comments by The Advocates for Human Rights’ on the Criminal Code, Administrative Code, and Criminal Procedural Code of Turkmenistan, 22 December 2023, available at https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=457

³¹ Testimony on file with The Advocates for Human Rights, 2023.

³² Testimony on file with The Advocates for Human Rights, 2023.

consistent. If anything, they acted more like good citizens than well-trained police officers. ... they failed to reassure me I was safe, and I could rely on their protection.” Afraid of repercussions from the abuser if she reported the case, the victim fled the scene, and the police let the abuser go after he insisted it was a “family matter.”³³

Mistrust of authorities and their inability to help was among the reasons indicated by women as to why they did not seek police help. In fact, only 9.8% of women actually seek assistance from the police.³⁴ One individual stated, “they don’t believe there could be any help received,” while another explained “nobody taught us to go to the police or to a doctor.”³⁵ If the police believe that abuse by a spouse is a “family” or “private” matter and thus fail to respond or intervene to protect the abused spouse, an abused wife seeking a divorce who has to wait now nine months to obtain it is highly vulnerable to continued violence by her abuser.

The UNICEF report also gathered information on other reasons for women’s reluctance to seek support, especially as 69% of respondents believe that conflicts and disagreements are a normal part of any relationship, while 62% of respondents agree with the statement that men and women are equally violent towards each other.³⁶ The same report further dismissed accountability for the perpetrator with 92% of respondents blaming substance abuse, such as alcohol and drugs, as the cause for domestic violence, while 46% of respondents felt obligated to tolerate the violence to preserve their family.³⁷

Furthermore, Turkmenistan lacks sufficient long- and short-term domestic violence shelters for women and their children as well as other, related services such as hotlines, helplines, medical support and counseling services. Reports indicate there are two NGOs in the entire country that serve domestic violence victims, including two hotlines, psychological support and two shelters- one in Ashgabat and one in Lebap welayat.³⁸ The government reported to the UN in 2022 that 18 women were provided temporary safe housing for the entire country, 1557 women were provided counseling, 591 women were provided social and psychological counseling, and 1001 women were provided social support during 2021-2022.³⁹ Realistically, there are very few options for an abused wife to use or go to to protect herself during the court-imposed reconciliation period.

³³ Testimony on file with The Advocates for Human Rights, 2023.

³⁴ Institute of State, Law and Democracy of Turkmenistan, State Statistics Committee of Turkmenistan, Ministry of Health and Medical Industry of Turkmenistan, and UNFPA, Health and Status of a Woman in the Family in Turkmenistan: Report on the results of the national sample survey, (2021), 31-32, accessed Dec. 23, 2023, https://turkmenistan.unfpa.org/sites/default/files/pub-pdf/report_health_and_status_of_a_woman_in_the_family_in_turkmenistan.pdf

³⁵ Testimony on file with The Advocates for Human Rights, 2023.

³⁶ UNICEF, Situation Analysis of Women and Children in Turkmenistan, 2024 (Nov. 2024), 10, accessed March 4, 2025, <https://www.unicef.org/turkmenistan/media/4801/file/%20SITUATION-ANALYSIS-of%20Women-and-Children-in-Turkmenistan-eng.pdf.pdf>

³⁷ Ibid.

³⁸ Proges Foundation and The Advocates for Human Rights, *Turkmenistan’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Lack of Domestic Violence Protection for Women and Girls*, Jan. 2, 2024, available at https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=456; Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Turkmenistan under Article 18 of the Convention*, due 2022, (Aug. 10, 2022), UN. Doc. CEDAW/C/TKM/6, paragraph 47.

³⁹ Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Turkmenistan under Article 18 of the Convention*, due 2022, (Aug. 10, 2022), UN. Doc. CEDAW/C/TKM/6, paragraph 47.

Based on the 2024 OSCE Gender Issue Programme study conducted with the Regional Office of the UNFPA for Eastern Europe and Central Asia, there were very minimal findings on Turkmenistan’s perpetrator program due to there being no established programs in the country.⁴⁰ Only two shelters provided services for survivors and their approach to address perpetrators was very limited.⁴¹

Many individuals surveyed by Progres Foundation emphasized the lack of knowledge about available shelters, and socio-economic and psychological support for domestic violence victims. One woman reported, “I have not looked for or heard of any shelters. I did not even know this kind of thing existed;” another stated, “if there are shelters, they are not advertised well or at all, which means they are not accessible.”⁴² Others expressed the desire for such safe-havens, “I wish there were shelters where women could stay with her children. Where she could be provided with food and clothing, also a way she could gain her financial freedom.”⁴³ Domestic violence shelters and related services are vital to protecting women from continued abuse by a spouse they are attempting to divorce, especially when the laws and systems actors are inadequate.

4. Proposed Recommendations

Ways in which the government of Turkmenistan can better protect a woman seeking to leave an abusive marriage include:

- Amend the Family Code to eliminate the mandatory reconciliation period for divorce cases that involve domestic violence.⁴⁴
- Offer appropriate, victim-centered, and private screening to assess for domestic violence in cases of divorce.
- Amend the Criminal Code to adopt a comprehensive law to provide that all forms of gender-based violence against women, including unmarried women, are criminalized and that legal sanctions or penalties against the abuser are commensurate with the gravity of the offense.
- Establish mandatory and effective education and training for members of the judiciary, lawyers, and law enforcement, on the power dynamics of intimate partner violence, and violence against women generally, including the effects of physical and mental trauma and the effect of domestic violence on children in the family.
- Amend the civil laws to allow for the issuance of a protective order at the request of a victim. The order for protection should, at a minimum:
 - Prevent the abusive spouse from harassing, intimidating, or threatening the abused spouse, or in any way harming her, the children, and any pets, or endangering their lives.

⁴⁰ Progres Foundation, “Programs for Perpetrators of Domestic Violence in Turkmenistan,” accessed on Nov. 11, 2024, <https://progres.online/society/programs-for-perpetrators-of-domestic-violence-in-turkmenistan/>

⁴¹ Ibid.

⁴² Testimony on file with The Advocates for Human Rights, 2023.

⁴³ Testimony on file with The Advocates for Human Rights, 2023.

⁴⁴ Committee on the Elimination of Discrimination against Women, Committee General Recommendation No. 35 on gender-based violence against women, (July 26, 2017), U.N. Doc. CEDAW/C/GC/35, paragraph 32(b).

- Order the abusive spouse to stay away from the family home and specific places such as the victim's workplace or children's school.
- Order the abusive spouse or a third-party acquaintance of the abusive spouse to have no contact, in person or remotely via electronics, with the abused spouse or their children.
- Amend the criminal laws to allow for a no-contact order (criminal) that is diligently enforced by police and carries commensurate penalties.
- Take necessary legislative measures to provide for the establishment of sufficient, easily accessible shelters for women experiencing domestic violence to provide safe accommodation and to publicize their availability.
- Ensure a victim's right to free legal assistance, financial assistance, medical assistance, and psychological counseling.