



# **TURKMENISTAN**

## **AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 16<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, MAY-JUNE 2013**

### **FOLLOW UP TO THE PREVIOUS REVIEW**

At the time of its first Universal Periodic Review in 2008, Turkmenistan accepted recommendations on key human rights issues, including to improve its cooperation with UN human rights mechanisms;<sup>1</sup> to guarantee the rights to freedom of expression, association and assembly and end harassment and intimidation of journalists;<sup>2</sup> to allow independent non-governmental organisations to register and work freely;<sup>3</sup> and to fully respect the freedom of movement.<sup>4</sup>

Since then, very little progress has been made on these issues, and Turkmenistan has failed to take adequate measures to implement the UPR recommendations it accepted.

As regards cooperation with UN human rights mechanisms, the authorities have allowed the Special Rapporteur on freedom of religion or belief to visit, and have submitted periodic reports to some of the UN treaty bodies. However, several other UN Special Procedures have requested visits, but have not been granted access. A request by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for permission to visit the country has been pending since 2003. The UN Working Group on arbitrary detention has requested to visit repeatedly since 2004, but to date has not been granted access.

With respect to the commitments Turkmenistan made to guarantee freedom of expression, association and assembly and prevent harassment and intimidation of journalists, Amnesty International considers that there has been no genuine attempt on the part of the authorities to improve the situation. On the contrary, freedom of expression continues to be under threat and critical media reporting is rarely tolerated. Amnesty International's research shows that journalists, human rights defenders and other activists continue to be subjected to harassment, torture and other ill-treatment, arbitrary detention and imprisonment following unfair trials, as discussed in more detail below. Similarly, Turkmenistan has failed to take measures to allow independent non-governmental organizations to work freely without harassment, or to reform the registration process for such organizations.

Despite Turkmenistan's commitment to fully respect the right to freedom of movement, the problematic "*propiska*" system of registering an individual's place of residence also remains in place. This restricts freedom of movement and impedes access to housing, employment and services, as discussed below.

Amnesty International regrets that most of the recommendations accepted by Turkmenistan in the 2008 review were very general in nature, while vital recommendations were rejected, including in relation to persons incarcerated on politically motivated charges.<sup>5</sup> Amnesty International also notes with concern that most of the issues raised in its previous submission to the UPR have still not been addressed by the Turkmenistani authorities.<sup>6</sup> In addition to the issues already highlighted, these include concerns over the definition of "high treason", enforced disappearances following unfair trial, restrictions on the right to freedom of religion, conscientious objection to military service, and discrimination against ethnic minorities.

### **THE NATIONAL HUMAN RIGHTS FRAMEWORK**

### **Monitoring by international organizations and UN human rights mechanisms**

Amnesty International is concerned that Turkmenistan remains closed to international scrutiny, that no independent international organizations have yet been granted access to carry out monitoring, and that Turkmenistan fail to cooperate fully with the UN human rights mechanisms.

In December 2009, the international organisation *Medecins sans Frontieres* closed down its operations in Turkmenistan, citing lack of cooperation by the Turkmenistani authorities.

In its concluding observations in June 2011, the UN Committee against Torture highlighted the continuing difficulties international organizations have in assessing the human rights situation in the country.<sup>7</sup> It also renewed calls for Turkmenistan to increase its cooperation with UN human rights mechanisms. Amnesty International is concerned that only one UN Special Procedure – the Special Rapporteur on freedom of religion or belief – has ever been allowed access to Turkmenistan, particularly given that there are currently outstanding visit requests by ten UN Special Procedures.

### **Legislation on the formation of political parties**

On 11 January 2012, the “Law On Political Parties” which formally legalises the formation of political parties was adopted by Turkmenistan’s Parliament. However, Turkmenistani human rights defenders and opposition political activists living in exile have expressed doubt about the application of the new law and the willingness of the authorities to allow open political debate. On 21 August 2012, a second political party, the Party of Industrialists and Entrepreneurs, was established. This is the first time since 1991 that an alternative to the ruling Turkmenistan Democratic Party has been allowed.

### **Lack of an independent mechanism to investigate abuse by law enforcement officers**

Amnesty International is concerned about the lack of an independent mechanism to investigate abuse by law enforcement officials and to conduct regular visits to prisons and other places of detention. In 2010, a commission to review complaints from prisoners was set up by Presidential Decree.<sup>8</sup> During the UN Human Rights Committee’s dialogue with Turkmenistan in March 2012, the government delegation stated that the Commission is comprised of representatives from non-governmental organizations, unions, democratic parties and local authorities.<sup>9</sup> Amnesty International is concerned that the hostile environment in which NGOs operate and the presence of representatives of government bodies on the Commission may compromise its independence and ability to carry out thorough and impartial investigations into alleged abuses.

The lack of a truly independent national monitoring system is compounded by the fact that the Criminal Procedural Code, which came into force on 1 July 2009, does not include a definition of torture.

## **THE HUMAN RIGHTS SITUATION ON THE GROUND**

### **Freedom of opinion and expression, freedom of assembly and of association**

Human rights defenders and other civil society activists are unable to operate openly. In recent years, Amnesty International has received credible reports of harassment, torture and other ill-treatment, arbitrary detention and imprisonment after unfair trials of human rights defenders and other activists, independent journalists, individuals who are critical of the authorities, and former government officials. The authorities closely monitor communication channels, such as telephone lines and the internet. Human rights defenders have told Amnesty International that they believe that the authorities monitor their communications to prevent information about human rights violations reaching international human rights organizations and media.

Journalists working with foreign media outlets known to publish criticism of the authorities frequently face harassment, intimidation and arbitrary detention. Many journalists report that the authorities often disconnect their telephone lines, and the relatively small number with private internet access report frequent disruptions to the service. The authorities have on many occasions attempted to silence correspondents of the US Congress-funded *Radio Free Europe/Radio Liberty*, which is often critical of the authorities in Turkmenistan and has broadcast human rights concerns.

Critical media reporting is very rarely tolerated. Independent civil society activists are unable to operate openly and some are forced to live in exile. Fear for dissidents' safety heightened in September 2010 when President Gurbanguly Berdymukhamedov called on the Ministry of National Security to fight those who, according to the government website, "defame our democratic law based secular state and try to destroy the unity and solidarity of our society."<sup>20</sup>

A number of prisoners of conscience remain imprisoned simply for exercising their rights to freedom of expression. In August 2010, the UN Working Group on arbitrary detention concluded that two such prisoners - Annakurban Amanklychev and Sapardurdy Khadzhiev – were arbitrarily detained after having been sentenced in unfair trials for exercising their rights to freedom of expression and association, and for their human rights work.<sup>21</sup> It called on the authorities to promptly release them and award them appropriate financial compensation. Both have been held incommunicado since 2006.

### **Torture and other ill-treatment**

Amnesty International has received reports that people suspected of committing criminal offences are routinely subjected to torture and other ill-treatment in Turkmenistan. Alleged perpetrators include police, officers of the Ministry of National Security and prison personnel. Torture and other ill-treatment are used to extract confessions and other incriminating information, and to intimidate detainees. Methods of torture and other ill-treatment reported to Amnesty International include electric shocks, asphyxiation applied with a plastic bag or gas mask to which the air supply is cut, rape, forcible administration of psychotropic drugs, beating with batons, truncheons, or plastic bottles filled with water, punching, kicking, food and drink deprivation, and exposure to extreme cold combined with the removal of clothes.

Impunity for torture and other ill-treatment is the norm in Turkmenistan, with complaints by victims rarely being pursued. To Amnesty International's knowledge, none of the allegations of torture and other ill-treatment in connection with the alleged assassination attempt on the then President Saparmurad Niyazov in November in 2002 have to date been investigated. There are credible allegations that many people were tortured or ill-treated at that time, including human rights defenders, journalists, members of certain religious minorities, conscientious objectors and those labelled as "traitors to the motherland".<sup>12</sup>

Similarly, to Amnesty International's knowledge no independent and effective investigation has been carried out into the death in custody, allegedly as a result of torture, of *Radio Free Europe/Radio Liberty* correspondent and former member of the NGO Turkmenistan Helsinki Foundation, Ogulsapar Muradova, in 2006.

### **Access to detention facilities**

Access to detention facilities for independent organizations remains tightly controlled by the authorities. Some prisons, such as the Ovadan-Depe prison near Ashgabad, have a reputation for especially harsh treatment of inmates, making it even more important that independent monitors be granted access.

Amnesty International notes the increased cooperation between the International Committee of the Red Cross (ICRC) and Turkmenistan. The organization hopes that the visits by ICRC delegates in July 2011 and April 2012<sup>23</sup> are indicative of a new willingness on the part of authorities to collaborate more closely with international organizations. However, Amnesty International is concerned that the ICRC has not been granted full access to all prisons, and that the invitation to visit detention facilities has not been extended to other organizations.

### **Enforced disappearances following unfair trials and incommunicado detention**

Amnesty International remains concerned about the continuing enforced disappearance of dozens of people convicted in 2002 and 2003 in unfair trials in connection with the above-mentioned alleged assassination attempt on former President Saparmurad Niyazov. The authorities have not disclosed the whereabouts of the prisoners, but according to non-governmental sources, most of the prisoners are held in the Ovadan-depe prison.

Relatives of the disappeared have told Amnesty International that they have had no news from their relatives for over ten years, and do not know if they are alive or dead. In some cases, they have not been allowed contact with their relatives despite some sentences specifying a certain allocation of family visits per year. In 2012, relatives reported to Amnesty International that the detainee was given an additional seven year sentence as the date of his release approached. The

additional sentence was allegedly for committing a crime against a prison guard. There are also allegations of the authorities harassing and intimidating relatives of detainees who try to lodge appeals.

Despite allegations by non-governmental sources that at least eight of the prisoners have died in detention, the authorities have so far not responded to requests by relatives and the international community to disclose information about deaths in custody. No thorough, impartial and independent investigation has been opened into the deaths, reportedly as a result of torture and other ill-treatment, harsh prison conditions and lack of appropriate medical treatment.

Among those who remain forcibly disappeared or in incommunicado detention are Boris Shikhmuradov, a former Foreign Minister of Turkmenistan, his brother, Konstantin Shikhmuradov, and Batyr Berdyev, former representative of Turkmenistan to the OSCE. Neither family members nor lawyers have been able to visit or learn of their fate or whereabouts.

### **Freedom of movement and the "propiska" system**

Despite having accepted a recommendation during its first review to fully respect the right to freedom of movement, the authorities continue to impose limit on this right. A Presidential decree of August 2010 reportedly prohibits the exit and entry to Turkmenistan of thousands of named individuals. A detailed breakdown of those denied entry to the country acquired by *Najot*, an Uzbekistani human rights organization operating near the border with Turkmenistan, specifically mentioned the names of prominent human rights defenders as well as foreign journalists.

Overall, 37,057 individuals were reportedly listed as being barred from leaving Turkmenistan. Amnesty International, the Open Society Foundation and Memorial are included on a list of human rights organizations barred from entry into the country, alongside 8,000 named individuals. Dissidents, members of certain religious minorities and their family members are often prevented from travelling abroad on the basis of "black lists" that government agencies are believed to maintain. Restrictions on the right to leave the country are being used to punish activists for their activities.

The former director of the state-run Association Turkmen Atlary (Turkmen Horses), Geldy Kyarizov, who was previously imprisoned following an unfair trial, is reported to have serious health problems for which treatment is not available in Turkmenistan. He and his family are allegedly on the government's 'black list' and therefore not permitted to travel abroad.

The system of registration of permanent residence in Turkmenistan, widely referred to by the Russian word "*propiska*", dates back to the Soviet era. The Regulation on the Passport System states that in order to obtain a "*propiska*" citizens must present proof of their entitlement to accommodation, such as a rental contract or a contract certifying the purchase of accommodation. Citizens caught without a valid "*propiska*" or only a temporary registration of residence are subject to administrative punishment.

Amnesty International is concerned that the application of the "*propiska*" system leads to a number of human rights violations affecting scores of people in Turkmenistan. The threat of losing one's "*propiska*" is used by the police and security services to discourage people from complaining of ill-treatment by the police, and also as a means of income through bribes. Requirements under the "*propiska*" make it virtually impossible for citizens to live and work legally in parts of the country other than where they are registered. The refusal of a "*propiska*" may cut off access to social benefits, such as child benefits or pension payments, and restrict rights to education and healthcare.

## **RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW**

**Amnesty International calls on the government of Turkmenistan to:**

*Cooperation with the UN human rights mechanisms*

- Allow the UN Special Procedures, in particular the Working Group on arbitrary detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Turkmenistan in line with their outstanding requests.

#### *Freedom of opinion and expression, freedom of assembly and of association*

- Release all prisoners of conscience immediately and unconditionally;
- Ensure that everyone, including human rights defenders, leaders of opposition parties, religious believers, civil society activists and journalists can peacefully exercise their right to freedom of expression in conformity with Turkmenistan's obligations under the International Covenant on Civil and Political Rights;
- Investigate all reports of assaults on and harassment of human rights defenders, independent journalists and civil society activists and bring to justice those responsible.

#### *Torture or other ill-treatment*

- Ensure that all trials scrupulously uphold international standards for fair trial;
- Ensure that no statement obtained as a result of torture or other ill-treatment is used as evidence in trial proceedings, except as evidence against a person accused of torture or other ill-treatment;
- Ensure prompt, thorough, independent and impartial investigations into all complaints of torture or other ill-treatment and that those responsible are held to account.

#### *Access to detention facilities*

- Grant full access to all detention facilities to independent national and international monitoring organizations;
- Establish an independent monitoring system for detention facilities as a matter of priority.

#### *Enforced disappearances following unfair trials and incommunicado detention*

- Immediately reveal the fate and whereabouts all those subjected to enforced disappearance;
- Investigate all cases of enforced disappearance and ensure that the perpetrators are brought to justice in fair trials;
- Ensure that all those sentenced to long-term imprisonments following the November 2002 events, are retried in proceedings which meet international standards on fairness and to which international trial observers have access;
- Make public the names of all prisoners who died in custody; conduct thorough, impartial and independent investigations into the circumstances of their deaths, and publicize the results.

#### *Freedom of movement*

- Abolish the "propiska" system and adopt further legislative and other measures to ensure compliance of the legal system and practice with the right to freedom of movement.

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Turkmenistan*, A/HRC/10/79, paragraph 69.5 (Germany, Bangladesh, Malaysia, Republic of Korea, Uruguay).

<sup>2</sup> A/HRC/10/79, paragraph 69.13 (Italy, Mexico, Sweden).

<sup>3</sup> A/HRC/10/79, paragraph 69.14 (Poland, Netherlands, Germany).

<sup>4</sup> A/HRC/10/79, paragraph 69.16 (Norway)..

<sup>5</sup> A/HRC/10/79, paragraph 69.71, referring to recommendations made in paragraphs 29 (g) (Canada); 40 (a) (Czech Republic); 41 (a) (Germany); and 43 (last sentence) (United Kingdom).

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<sup>6</sup> Amnesty International, *Turkmenistan: Submission to the UN Universal Periodic Review: Third session of the UPR Working Group of the UN Human Rights Council, December 2008* Amnesty International EUR 61/005/2008, 21 July 2008  
<http://www.amnesty.org/en/library/info/EUR61/005/2008/en>

<sup>7</sup> Concluding observations of the Committee against Torture, Turkmenistan, CAT /C/TKM/CO/1, 15 June 2011, paragraph 14. <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.TKM.CO.1.pdf>.

<sup>8</sup> Presidential Decree No. 11019 of 31 March 2010 "On approval of Decree on the Supervisory Committee to strengthen control of the legality of the activities of the bodies responsible for the execution of sentences, and for working with people who have been released from prison and are registered as risk groups for crime"

<sup>9</sup> Human Rights Committee, "Human Rights Committee notes Turkmenistan's 'New willingness' to improve human rights record, but says gap remains between legal framework, implementation", General Assembly, Human Rights Committee, 104th Session, 16 March 2012, at <http://www.un.org/News/Press/docs/2012/hrct743.doc.htm> (UN HRC, 104th Session).

<sup>10</sup> The President's speech can be found on the official government website:  
[www.turkmenistan.gov.tm/ ru/oficial\\_news/2010/of100930a.html](http://www.turkmenistan.gov.tm/ru/oficial_news/2010/of100930a.html)

<sup>11</sup> Opinion 15/2010 Report of the Working Group on Arbitrary Detention A/ HRC/16/47.Add 1

<sup>12</sup> Dozens of prisoners were labeled as "traitors of the motherland" by the authorities in connection with the alleged armed attack, in November 2002, on former President Niyazov. They were sentenced in unfair trials on charges including "conspiracy to violently overthrow the government and/or change the constitutional order", "attempting to assassinate the President", and "setting up or participating in a criminal organization".

<sup>13</sup> ICRC, "Turkmenistan: ICRC visits prison", 13 April 2012, at <http://www.icrc.org/eng/resources/documents/news-release/2012/turkmenistan-news-2012-04-09.htm>