



Human Rights Watch Submission to the United Nations Committee against Torture on Turkmenistan

April 2011

Introduction

This submission summarizes Human Rights Watch's concerns regarding Turkmenistan's compliance with its obligations under the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which it acceded on June 25, 1999. We believe the upcoming review of Turkmenistan's initial report provides a crucial opportunity to highlight the Turkmen government's appalling record on torture and ill-treatment and to formulate recommendations for specific steps to address concerns identified. We hope that the information provided in our submission will help inform the Committee's assessment and contribute to its recommendations to the Turkmen government.

Most submissions Human Rights Watch has prepared to the Committee in advance of its reviews of state reports draw on extensive, detailed case information gleaned either from our own research or that of colleague nongovernmental organizations (NGOs). However, in contrast to our experience in many other countries where we work, Human Rights Watch has been unable to document numerous cases involving torture, ill-treatment, and inhuman or degrading treatment in Turkmenistan because the country is completely closed to any international or domestic human rights monitoring.

Indeed, as described below, Turkmenistan is one most repressive governments in the world. The government exercises total control of public life. People profoundly fear talking about mistreatment they or their relatives have endured at the hands of the authorities out of fear of government retaliation, and human rights activists in Turkmenistan work under extremely dangerous circumstances.

The Turkmen government continues some of the worst human rights practices that were hallmarks of the Soviet era – forcibly detaining dissidents in psychiatric facilities, sending into internal exile those who fall out of government favor, and arbitrarily interfering with citizens' ability to travel abroad.

For these reasons, a significant portion of this submission is devoted to presenting the broader human rights context that we believe is essential for the Committee's assessment of the state party's report and of the information about torture and ill-treatment that it will receive from human rights groups.

Nevertheless, torture and ill-treatment are widely recognized as a major concern in Turkmenistan, and Human Rights Watch is aware of several cases in which individuals detained in Turkmenistan reported that they had been held incommunicado, subjected to ill-treatment, including torture. To the best of our knowledge, in none of these cases has an effective investigation into these allegations taken place.

General Background: End of the Niyazov Era but No Transition

Under Saparmurat Niyazov, Turkmenistan's president-for-life who died in December 2006, the country suffered one of the world's worst tyrannies. Niyazov terrorized government and society: his government tolerated no dissent, media or political freedoms, and drove opposition political figures, human rights defenders, and independent journalists into exile or put them in prison. Frequent purges of his government resulted in lengthy prison sentences for officials.

Niyazov was succeeded by Gurbanguly Berdymukhamedov in 2007. During his first two years in office, Berdymukhamedov began to reverse some of Niyazov's most ruinous social policies. But then his course appeared to reverse, and today Turkmenistan remains one of the most repressive, authoritarian countries in the world. The government has increasingly repressed NGOs and Turkmen activists, and prevented citizens from leaving the country; indeed freedom of movement sharply declined in 2009 and 2010. Instead of continuing needed reforms in education in 2010, the government introduced burdensome requirements for students seeking to travel abroad for university, and allowed "Ruhnama" (The Book of the Soul), Niyazov's propaganda book, to remain a subject in university entrance exams. Instead of expanding access to the internet and other media,

the government blocked websites and banned the import of some printed materials.

There is no rule of law in Turkmenistan. The constitutional principle of separation of powers between the executive, legislative and judicial branches is absent in Turkmenistan. Both the legislative and judicial branches of power in practice serve the executive. Turkmenistan is the only country in the Commonwealth of Independent States (CIS) that has no constitutional court or ombudsman. A National Institute for Democracy and Human Rights (NIDHR) was created under the president's office but in practice it has no power. The Commission for Citizens' Complaints about Law Enforcement Agencies is also under the auspices of the president, who chairs it. The commission aims to "pursue further democratic developments ensuring protection of rights and liberties of a person enshrined in the Constitution." It also aims to improve the revision procedure of citizens' complaints. The second-in-charge of this commission is the chairman of the Supreme Court. The composition of the commission raises concerns about its autonomy and fairness.

In 2010 and 2011 Turkmenistan adopted a raft of new laws, including amendments to the criminal and administrative codes. However, none of these changes have addressed the government's fundamental lack of public accountability.

Turkmenistan's prisons remain closed to the outside for observation. No international agency, governmental or non-governmental, including the International Committee of the Red Cross (ICRC), has access to monitor Turkmen detention facilities. A report published in February 2010 jointly by the Independent Lawyers Association of Turkmenistan and the Turkmen Initiative for Human Rights (TIHR) – two independent human rights groups in exile – highlighted serious problems in Turkmenistan's penitentiary system, including overcrowding, degrading treatment of inmates, poor nutrition, corruption, and lack of public oversight. In an unprecedented move, Berdymukhamedov responded to the report by acknowledging problems and promising reform. But amendments subsequently made to the criminal code did not address the report's main concerns.

Turkmenistan is one of very few countries in the world that does not allow access to Human Rights Watch. Since 1999, when we were last able to visit Turkmenistan and meet with government officials and victims of human rights abuses, we have unsuccessfully requested access numerous times. Other international NGOs are similarly barred from conducting in-situ human rights research in Turkmenistan. In December 2009, Médecins Sans Frontières (MSF) announced that following repeated rejections on the part of Turkmen authorities of their project proposals, they were forced to close. MSF was the last remaining international humanitarian NGO in Turkmenistan, where it had been since 1999.

The Turkmen government has also continued to deny access to UN special procedures, no fewer than nine of whom have longstanding requests for invitation. A visit in September 2008 by the UN Special Rapporteur on freedom of religion – the first UN special rapporteur to visit the country – gave rise to hope that it would be followed by a more sustained opening of the country for independent human rights monitoring, but more than two and one half years later, no further visits have materialized and Turkmenistan remains utterly closed to independent human rights scrutiny.

Political Prisoners in Turkmenistan

It is impossible to determine the number of political prisoners in Turkmenistan because of the wall of secrecy that surrounds their detention. After two decades of intolerance to dissent and widespread abuse of the criminal justice system for governmental purges, hundreds and possibly thousands of people have either served or continue to serve lengthy prison terms as a result of closed, unfair trials.

Early in Berdymukhamedov's presidency, his government released approximately two dozen people believed to have been imprisoned for political reasons. But since then the Turkmen government has not only failed to begin a process of reviewing all potential cases of political imprisonment in order to ensure the release of all those wrongfully imprisoned, but has not even acknowledged the existence of political prisoners as such. During the Universal Periodic Review before the UN Human Rights Council in December 2008, it refused to accept any recommendations relating to the issue of political prisoners, making clear that it considers all these persons ordinary criminals. Until a review process is established, and until independent human rights monitoring is

possible in Turkmenistan, it will remain exceedingly difficult to estimate the numbers of political prisoners, past or present.

There are, however, a number of known political prisoners serving lengthy sentences on trumped-up charges. Such prisoners include Annakurban Amanklychev and Sapardurdy Khajiev, who had worked with human rights organizations prior to their imprisonment in 2006, and political dissident Gulgeldy Annaniazov, imprisoned in 2008. Their cases are described in more detail below.

There have also been a number of recent arrests on what appear to be politically motivated grounds. Since early March this year, Turkmen authorities have detained at least four individuals – Bazergeldy and Aydjema Berdyev, Bisengul Begdesenov, and Amangelen Shapudakov – raising concerns about intensifying repression in the country. These, and a number of other, cases are also described in more detail below.

In all of these cases, Human Rights Watch is profoundly concerned about the safety and well-being of those detained.

Individual Cases

Annakurban Amanklychev, Sapardurdy Khajiev, and Ogulsapar Muradova

Just days before a European Parliament delegation was scheduled to arrive in Ashgabat in June 2006 to determine whether the European Union should sign a trade agreement with Turkmenistan, the Turkmen government detained three local human rights defenders and their relatives—Annakurban Amanklychev, Sapardurdy Khajiev, and Ogulsapar Muradova, affiliated with the Turkmenistan Helsinki Foundation.

Police took Ogulsapar Muradova, 58, who had been working for Radio Free Europe/Radio Liberty, from her home showing no warrant and claiming that they needed only to have a “conversation” with her at the station. Muradova’s daughters, Sona and Maral, spent the night outside the Ashgabat police station where their mother was being held to seek information about her. When a police official finally went to speak to them, he demanded that they bring Muradova’s computer, fax and cell phone. When Muradova’s family members insisted on a

warrant for this, the police official returned with a statement allegedly signed by Muradova asking that the relatives do as the police said. When the relatives refused to accept the statement, the police official had them communicate, allegedly with Muradova, by walkie-talkie. Muradova asked her children to bring the items, although her voice was transformed, raising fears that she had been drugged or otherwise abused.

In August 2006 Annakurban Amanklychev, Sapardurdy Khajiev, and Ogulsapar Muradova were sentenced in a closed trial to prison terms of six to seven years on false charges of "illegal weapons possession." Security services cited Amanklychev's participation in human rights trainings in Poland and Ukraine and his work with British and French journalists who visited Turkmenistan to justify his arrest.

Ogulsapar Muradova died in custody in September 2006 under suspicious circumstances. No credible investigation of her death was conducted. According to sources who saw her body, she had wounds on her head and feet. Muradova was held incommunicado throughout her detention. Human Rights Watch and other human rights organizations repeatedly voiced concerns about the risk of torture and ill-treatment the three detainees faced in custody.

Unlike other prisoners, who are entitled to monthly family visits, Amanklychev and Khajiev are restricted in the number of family visits they are allowed to have. According to the Turkmen government, Amanklychev has had between two and six visits per year since 2007, while Khajiev has had between two and four per year since 2007. In 2006 neither had any family visits, although according to relatives, requests were made.

In August 2010, the UN Working Group on Arbitrary Detention found the detention of Amanklychev and Khajiev to be arbitrary and urged the government to release them immediately.

Gulgeldy Annaniazov

Gulgeldy Annaniazov is a former political prisoner who from 2002 until 2008 lived in exile in Norway, where he holds refugee status. In spring 2008 Annaniazov had announced his decision to return to Turkmenistan in order to "help his fatherland to improve its education and public health systems." He returned to Turkmenistan

on June 23, 2008 and was arrested, without a warrant, the next day. According to his son, Annaniazov was charged with illegal border crossing (for returning to his own country), and sentenced on October 7, 2008 to 11 years of imprisonment. His family was not informed about his trial or on the exact charges against him. Annaniazov's relatives have had no official information about him since his imprisonment.

Annaniazov was first arrested in 1995 and was among a group of men, known as the "Ashgabat Eight," imprisoned at that time for organizing a peaceful demonstration in Ashgabat calling for democratic reform in Turkmenistan. The authorities sentenced Annaniazov and his co-defendants to prison terms ranging up to 15 years. While imprisoned, Annaniazov's health deteriorated due to the harsh prison conditions. He was released in 1999 under an amnesty, and left the country in 2002.

Bazargeldy and Aydjemal Berdyev

Bazargeldy and Aydjemal Berdyev were detained on April 19, 2011 at their home by about 10 men believed to be national security officers and taken away in handcuffs. According to Vienna-based Turkmen Initiative for Human Rights (TIHR), the couple has been the target of government persecution, including torture, unlawful detention and illegal confiscation of property for more than a decade.

The Berdyevs were initially harassed by national security officers in 1998 in relation to their business activities. For thirteen years, they have unsuccessfully tried to seek justice for the mistreatment they suffered. Their complaints to Prosecutor-General's office, the OSCE Centre and the UN representation offices in Ashgabat have brought no results. In 2009 the couple filed a complaint with the National Institute for Democracy and Human Rights (NIDHR), an official body under the office of the president, alleging that they had both been tortured by security services in 1998. The NIDHR, in its response to the Berdyevs, admitted only moral damage caused to the couple. It said that materials of the Berdyevs' complaint regarding illegal confiscation of property, torture and the miscarriage that Aydjemal Berdyev endured will be transferred to the Commission for Citizens' Complaints about Law Enforcement Agencies under the President, to the Prosecutor General, and to the Chairman of the Supreme Court. However, from the date of the NIDHR's response (2009) to this writing, no follow up on the Berdyevs' complaint has taken place.

According to TIHR, Bazargeldy Berdyev was held in 1998 for more than three months in a Ministry of National Security detention facility, during which time he was severely beaten and tortured. Mr. Berdyev became disabled as a result of the beating. Ms. Berdyev sustained a broken hand and a miscarriage as a result of the beating and other torture she endured in the same facility. Law enforcement bodies accused the Berdyevs of swindling and arbitrarily seized a large amount of foreign currency and personal belongings from them. After their release the Berdyevs tried to seek redress. The authorities detained, beat and forcibly held Aydjemal Berdyev in a psychiatric clinic in retribution for pursuing a compliant. According to the TIHR, Ms. Berdyev is suffering serious psychological problems as a result of the years of persecution the family has endured for seeking redress.

Bisengul Begdesenov

On April 11, 2011, Bisengul Begdesenov, a prominent leader of the Kazakh minority in the country, was detained at his home in Ashgabat by officers of the Ministry of National Security. According to Begdesenov's family, national security officials searched his apartment without a warrant and confiscated computers, USB memory cards and other materials. Begdesenov apparently faces charges of fraud and could face up to five years in prison if convicted. Begdesenov is the founder of the Kazakh social-cultural center "Elimay Turkmenistan," which he had unsuccessfully tried to register with the Turkmen authorities. His family believes that the recent arrest is punishment for his civil society and community activities, including helping ethnic Kazakhs repatriate to Kazakhstan.

Amangelen Shapudakov and Sazak Durdymuradov

Amangelen Shapudakov, an 80-year-old contributor to the media outlet Radio Free Europe/Radio Liberty, was detained on March 7, 2011 and forcibly confined in a psychiatric facility in Balkanabat, a regional capital. Radio Free Europe reported on April 1 that an official had confirmed to its Turkmen service, Radio Azatlyk, that Shapudakov had been committed at least 10 days before for medical exams and was expected to remain at the hospital for another month. Police previously detained Shapudakov in February 2011, after he complained to international organizations about official harassment. According to Radio Free Europe/Radio Liberty, Shapudakov had also been barred from leaving his home

district, and photos suggesting he was a criminal had been posted in public places.

Shapudakov is not the first Radio Free Europe affiliate targeted in this way. On June 20, 2008, Sazak Durdymuradov, an unpaid contributor to Radio Free Europe/Radio Liberty and a history teacher, was seized by secret police in his home. According to Radio Free Europe, he was detained and transferred to a psychiatric clinic known to many as the "Turkmen gulag." He was held there for two weeks, badly beaten, and subjected to psychological pressure before being released on July 4, 2008. During his detention Durdymuradov was pressured to sign a statement that he would stop writing for Radio Free Europe; when he was released, he was warned to provide only "correct information."

Ilmurad Nurliev and other cases of religious persecution

A Pentecostal pastor, Ilmurad Nurliev, is also imprisoned on politically motivated grounds. He was sentenced on 21, October 2010 to four years in prison on what appear to be bogus swindling charges. The prosecution argued that Nurliev had swindled four people who visited a shelter run by the church, even though one of the alleged victims was in prison for much of the time the swindling allegedly took place, and two did not testify in court. The trial judge refused to allow all but three church members to testify for the defense, and the court failed to provide the defense with the written verdict in time to appeal. Nurliev's worship services were raided in 2008, and Nurliev and congregants have endured harassment by government agencies in recent years, suggesting that the swindling charges may have been fabricated to prevent Nurliev from leading his religious community and worshipping with his congregants.

The Turkmen government also continues to imprison Jehovah's Witnesses for refusing compulsory military service on grounds of religious conscience, and at this writing holds at least eight in custody. Its undeclared campaign against terrorism has involved a crackdown on Muslims branded "Wahhabi," a term it uses to defame followers of a more austere form of Islam and imply their association with terrorism. According to Forum 18, an independent news reporting service focused on religious freedom, in June 2010 a mullah in Dashagouz province received a three-year prison sentence after security services searched his home and allegedly found a fake grenade, which then

inexplicably vanished from the case materials. Police officers compelled all of the mullah's followers to shave their beards.

Boris Shikhmuradov and others imprisoned in connection with the 2002 alleged assassination attempt on Niyazov

The fate of some 50 prisoners who have been 'disappeared' after they were convicted in relation to the November 2002 alleged assassination attempt on Niyazov—including former foreign minister Boris Shikhmuradov and Turkmenistan's former ambassador to OSCE Batyr Berdiev—remain unknown, with their whereabouts not disclosed even to their families. Human Rights Watch is aware of unconfirmed reports that a number of defendants in the 2002 plot case have died in detention. The Turkmen government has not responded to numerous inquiries about the fate and whereabouts of Shikhmuradov, who is a dual Turkmen-Russian national, lodged by the Russian parliament, Ministry of Justice, Prosecutor General's office, and Ministry of Foreign Affairs. Nor has it responded to numerous requests for information filed by Shikhmuradov's wife. Indeed, since his sham trial in December 2002, no family member or acquaintance has had any communication with Shikhmuradov.

The investigations and subsequent trials following the 2002 assassination attempt were characterized by a blatant disregard for basic due process and fair trial standards. The trials were closed, and defendants were held incommunicado and not granted counsel of their choice. Human Rights Watch received credible reports of ill-treatment and torture of suspects. According to individuals close to his case, Amanmukhamet Yklymov, one of the defendants, made a statement in court describing how he had been tortured but the court disregarded it. Relatives of many suspects were also detained and subjected to torture and psychological pressure in an effort to force them to incriminate their loved ones. Many of these relatives remain in detention to date.

International Jurisprudence

The UN Human Rights Committee adopted its first decision on Turkmenistan on July 24, 2008. In this case (*Komarovski v Turkmenistan*) the committee found that flagrant abuse of justice and failure to investigate and prosecute torture and arbitrary detention had taken place in the aftermath of the alleged 2002 attack on Saparmurad Niyazov's life. The committee established that Turkmenistan

breached several rights of Leonid Komarovski, one of those accused in alleged attack, including his right to personal liberty and protection from torture.

The committee ruled that Turkmenistan must provide Komarovski with an effective remedy and, to that effect, take appropriate steps to prosecute and punish the persons responsible for the violations, provide Komarovski with appropriate reparation, including compensation and a public retraction of a false statement by the government about Komarovski. The committee also highlighted Turkmenistan's obligation to take measures to prevent similar violations in the future. To date we are not aware of any steps taken by the Turkmen government to comply with this decision, or the other two decisions the committee has since issued on individual applications from Turkmenistan (Yklymova and Bozbei— the latter concerning torture of a Turkish businessman).

The European Court of Human Rights (the Court) has issued decisions on four cases— Garabayev v Russia, Ryabikin v Russia, Soldatenko v Ukraine, and Kolesnik v Russia—in which it prohibited extradition to Turkmenistan on the basis that it would constitute violation of Article 3 of the European Convention on Human Rights. In each of these cases, the Court held that extraditing applicants to Turkmenistan would cause a risk of ill-treatment due to the lack of an effective system of torture prevention, and inhuman and degrading treatment of suspects and criminals in custody.

In one of these cases (Kolesnik) the Court noted that “latest reports by the government and non-government observers do not demonstrate any improvement as to the situation in Turkmenistan on the most important points. Moreover, international observers, including the ICRC, have continued to be denied access to the places of detention.”

In Ryabikin, the Court noted that “the evidence from a range of objective sources demonstrates that extremely poor conditions of detention, as well as ill-treatment and torture, remain a great concern for all observers of the situation in Turkmenistan.” It also noted that “accurate information about the human rights situation in Turkmenistan, and in particular about places of detention, is scarce and difficult to verify, in view of the exceptionally restrictive nature of the prevailing political regime, described as ‘one of the world’s most repressive and closed countries’ and the systematic refusal of the Turkmen authorities to allow

any monitoring of places of detention by international or simply non-governmental observers. Hence, the fate of even the most prominent prisoners often remains unknown even to their families.”

In Soldatenko, the Court noted that “allegations of torture and ill-treatment are not investigated by the competent Turkmen authorities.” It further noted that “international human rights reports also showed serious problems as regards the international cooperation of the Turkmen authorities in the field of human rights and categorical denials of human rights violations despite the consistent information from both intergovernmental and nongovernmental sources.”

Recommendations

The Committee’s upcoming review of Turkmenistan is a rare opportunity for in-depth, public scrutiny of Turkmenistan’s atrocious record in a key area of human rights concern. We look forward to the Committee’s authoritative assessment and recommendations, which we hope will reflect the concerns outlined in our submission. Below are our recommendations for specific steps the Committee should urge the Turkmen government to take:

- Release all those imprisoned for political reasons, including Annakurban Amanklychev, Sapardurdy Khajiev, Gulgeldy Annaniazov, and Ilmurad Nurliev;
- Release Amangelen Shapudakov from the psychiatric facility where he is being held and stop the practice of using forced incarceration in psychiatric facilities to silence independent voices;
- Release from detention Bazargeldy and Aydjemal Berdyev and Bisengul Begdenesov and drop any charges laid against them;
- Ensure an independent inquiry into Ogulsapar Muradova’s death in custody; make known what steps, if any, were taken so far to investigate her death, and whether an independent forensic examination was conducted and if so, by whom and with what result;
- Immediately disclose the whereabouts and fate of Boris Shikhmuradov and all other defendants of the 2002 alleged assassination attempt on former president Niyazov, and release their imprisoned relatives; afford those in detention full due process including visits from their family members and conduct a review of their convictions;

- In line with the UN Human Rights Committee's decision on Komarovski v Turkmenistan, take steps to prevent similar violations from happening in the future, including by investigating and prosecuting anyone responsible for torture and ill-treatment of the defendants and providing Komarovski and other victims of similar abuses with an appropriate remedy, including compensation;
- Launch a nationwide, transparent review of all political cases of past years in order to establish an accurate number of political prisoners and begin to provide them with justice;
- Thoroughly investigate all allegations of torture and ill-treatment, make public the results of such investigations, bring perpetrators to justice and provide victims with an adequate remedy, including compensation;
- Open up the country for independent scrutiny by allowing domestic and international organizations and monitors, including the nine UN special procedures who have pending requests for invitation, to conduct independent human rights monitoring in the country, including through effective access to places of detention;
- Promptly grant ICRC unfettered access to all places of detention;
- Allow activists, civic groups, and journalists to operate freely and without fear of persecution.