



FREEDOM NOW

FREEDOM NOW – COMMUNICATION TO THE HUMAN RIGHTS COMMITTEE TURKMENISTAN SESSION

JANUARY 26, 2012

I. Introduction

Freedom Now submits this report to assist the Human Rights Committee in its review of Turkmenistan's adherence to the International Covenant on Civil and Political Rights to take place on March 15th and 16th, 2012. Freedom Now is a non-governmental organization ("NGO") based in Washington, D.C., that seeks to free prisoners of conscience through focused legal, political and public relations advocacy efforts.¹ The Most Reverend Desmond M. Tutu, Archbishop Emeritus of Cape Town, serves as Freedom Now's honorary chair.

Complementing other submissions that examine the broader picture of Turkmenistan's human rights abuses, this report focuses on the government's treatment of two human rights defenders who it has detained unlawfully since 2006: Messrs. Annakurban Amanklychev and Sapardurdy Khadzhev. Both men—human rights activists, independent journalists, and members of the Turkmenistan Helsinki Foundation—are currently serving seven-year prison sentences in Turkmenistan. They were convicted based on fabricated charges in 2006 and have since languished in deplorable prison conditions. Messrs. Amanklychev and Khadzhev's case exemplifies Turkmenistan's failure to respect human rights and its mistreatment, on an individual level, of human rights advocates.

In August 2010, the United Nations Working Group on Arbitrary Detention found the Turkmen government's detention of Messrs. Amanklychev and Khadzhev to be in violation of the International Covenant on Civil and Political Rights.² The Working Group called on the government to release both men immediately. The opinion was issued after Freedom Now filed an urgent action petition. Despite the UN body's opinion and its call for release, which has been echoed by human rights organizations and foreign governments worldwide, both men remain in prison and subject to inhumane treatment. This case aptly demonstrates Turkmenistan's failure to comply with international law and the dictates of the international bodies that enforce it. Finally, the plight of Messrs. Amanklychev and Khadzhev, which is representative of the situation of many other unknown Turkmen prisoners of conscience, is emblematic of a larger pattern of human rights abuses in the nation.

¹ For more information on Freedom Now, please visit <http://freedom-now.org/home.php>.

² Hogan Lovells, an international law firm based in Washington, DC, worked with Freedom Now *pro bono* to submit a petition to the United Nations Working Group on Arbitrary Detention seeking the release of Messrs. Annakurban Amanklychev and Sapardurdy Khadzhev from unlawful detention.

II. Turkmenistan Has Failed to Uphold its International Obligations to Respect Basic Human Rights

Despite the fact that Turkmenistan has signaled its intent to comply with international human rights treaties, the government's continued imprisonment of Messrs. Amanklychev and Khadzhiiev demonstrates its failure to uphold these obligations. A party to the International Covenant on Civil and Political Rights ("ICCPR") since 1997, Turkmenistan nevertheless defies both the letter and spirit of this treaty.³

As documented by NGOs and government agencies (e.g. U.S. State Department), arbitrary detention of individuals classified as prisoners of conscience is a recurrent problem worldwide and poses one of the greatest threats to rule of law and to the development of respectful democracies. Prisoners of conscience are persons who have not used or advocated violence who have been detained for (i) their political, religious, or other beliefs, (ii) their expression or associations, or (iii) because of their ethnic origin, sex, sexual orientation, color, language, national or social origin, economic status, birth or other status. The detention of such individuals is of particular concern in Turkmenistan, where the government does not respect individual freedoms and actively quashes all dissent.

As reported by the U.S. State Department and NGOs, the Turkmen government has an abysmal record of failing to respect the human rights of its citizens. In its most recent report, the State Department notes a continuing trend of abusing citizens despite recent changes in government and a new constitution ostensibly aimed at improving human rights in the country. The 2010 edition of the Freedom Index compiled by the NGO Reporters Without Borders ranks Turkmenistan 176 out of 178 countries measured on press freedom.⁴ Moreover, on its Democracy Index, *The Economist* ranked Turkmenistan 165 out of 167, falling below Burma and Sudan.⁵

Arbitrary detention remains one of the chief means by which the government controls people and silences dissent. Individuals who are deemed to oppose the government face charges of espionage and treason, among other fabricated charges. Individuals who engage in human rights activities, such as the collection and dissemination of information pertaining to government abuses, are particularly at risk for unlawful arrest. In a trend that has continued since former President Saparmurat Niyazov died in 2006, activists are arrested on fabricated charges, subjected to sham trials, and sentenced to lengthy periods in remote prisons.

There remain numerous individuals, including political activists, human rights advocates, journalists, and religious individuals, who are reportedly being arbitrarily detained. In some cases, detainees have died while in detention under suspicious circumstances. Inhumane

³See United Nations Treaty Collection, *available at* http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

⁴ Reporters Without Borders, *2010 World Press Freedom Index*, http://www.rsf.org/IMG/CLASSEMENT_2011/GB/C_GENERAL_GB.pdf.

⁵ THE ECONOMIST, *Democracy Index 2010*, http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf.

treatment in detention, though prohibited by law, is common, and torture is frequently inflicted as a means for extracting confessions. Not surprisingly, Turkmenistan has failed to carry out transparent investigations relating to the maltreatment and death of detainees, despite international urging.

The Ministry of National Security, reported to be responsible for most arbitrary arrests, and the police operate with impunity and are characterized by high levels of corruption. While there have been attempts, particularly by the Office of Security and Cooperation in Europe, to train high-ranking Turkmen officials on proper procedures that comply with international standards, these efforts have failed.

III. Turkmenistan's Abuses Exemplified: The Case of Human Rights Activists Annakurban Amanklychev and Sapardurdy Khadzhiev

Messrs. Annakurban Amanklychev and Sapardurdy Khadzhiev are independent journalists and members of the Turkmenistan Helsinki Foundation (“THF”),⁶ a Bulgaria-based, independent non-profit organization established in 2003 to “watch human rights, freedom and protection of people of Turkmenistan and to sharp [*sic*] the attention of the democratic world to the situation in the country.”⁷ THF also aims to “help and support everyone who suffers because of his convictions and understandings.”⁸

Mr. Amanklychev has participated in non-violent human rights training exercises in Poland and Ukraine.⁹ In Poland, Mr. Amanklychev attended the International Summer School for Human Rights, an annual training held by the Helsinki Foundation for Human Rights that teaches the historical and philosophical background of human rights, as well as international and domestic human rights law.¹⁰ In Ukraine, Mr. Amanklychev attended a training held by Donetsky Memorial, a non-violent group that conducts educational seminars on prison reform.¹¹

Mr. Khadzhiev has also worked extensively on prison reform issues, including bringing to light Turkmenistan's practice of arbitrarily detaining opposition leaders and political dissenters. For example, he has conducted interviews of former Turkmen political prisoners who were granted amnesty by the Turkmen government, and he has investigated the whereabouts of political prisoners who have disappeared. Mr. Khadzhiev has also surveyed former prison employees about the conditions in which political prisoners are detained.

⁶ See INT'L FED'N OF HUMAN RIGHTS, OBSERVATORY FOR THE PROTECTION OF HUM. RTS. DEFENDERS ANNUAL REPORT 2006 - TURKMENISTAN, Mar. 14, 2007, <http://www.unhcr.org/refworld/docid/48747ceec.html>.

⁷ Turkmenistan Helsinki Foundation for Human Rights, <http://www.tmhelsinki.org/en/>.

⁸ *Id.*

⁹ See Human Rights Watch, *Human Rights Watch World Report 2007 - Turkmenistan*, Jan. 11 2007, <http://www.unhcr.org/refworld/docid/45aca2a820.html>.

¹⁰ See, e.g., Helsinki Foundation for Human Rights, 20th International Summer School on Human Rights, <http://www.hfhrpol.waw.pl/news196-en.html>.

¹¹ Donetsky Memorial, About “Donetsky Memorial,” http://prison.memo.ru/English%20version/aboutus_eng.htm.

In addition, Mr. Khadzhiiev's family is heavily involved in human rights activities. His brother, Annadurdy Khadzhiiev, is an opposition leader and former Central Bank Deputy Chairman who currently lives under humanitarian status in Bulgaria. Mr. Khadzhiiev's sister-in-law, Tajigul Begmedova, is a human rights activist and the head of THF; she also lives in exile in Bulgaria. Mr. Khadzhiiev was previously imprisoned by the Turkmen government in 2002 on orders by then-President Niyazov to detain all of Mr. Annadurdy Khadzhiiev's relatives.

Both Messrs. Amanklychev and Khadzhiiev have also worked with French and British journalists and news organizations, such as the BBC, to publicly expose the Turkmen government's failure to respect human rights.¹² At the time of their arrest, the men were assisting a French news agency with the production of a documentary that sought to expose human rights violations and inadequate medical access in the country.

a. Contrary to the Demands of the UN Working Group on Arbitrary Detention, Messrs. Amanklychev and Khadzhiiev Continue to Languish in Prison

Turkmen officials from the Ministry of National Security arrested Mr. Amanklychev at his home in Ashgabat, Turkmenistan on June 16, 2006.¹³ Two days later, on June 18, 2006, police arrested fellow journalists and human rights activists Mr. Khadzhiiev, and Ms. Ogulsapar Muradova, a reporter for Radio Free Europe/Radio Liberty and a former THF member.¹⁴ Amnesty International reports that a total of seven individuals—including Mr. Amanklychev, Mr. Khadzhiiev, and Ms. Muradova—were detained by Turkmen government authorities in June 2006 “solely because they are members, or relatives of members, of the non-governmental human rights organisation Turkmenistan Helsinki Foundation, which has publicised human rights violations in the country.”¹⁵ This detention based on the individuals' associations with human rights organizations and their exercise of their right to freedom of expression violates Article 22 and Article 19 of the ICCPR. Article 22 guarantees the “right to freedom of association with others,” while Article 19 protects “the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.”

Further, Mr. Amanklychev, Mr. Khadzhiiev, and Ms. Muradova were not notified of the charges against them,¹⁶ and they were not formally charged with a crime, until July 12, 2006¹⁷—nearly

¹² See Reporters Without Borders, *French Festival Awards Prize to TV Documentary for which Three Turkmen Journalists Paid with Their Freedom and one with Their Life*, Dec. 8, 2006, <http://www.rsf.org/French-Festival-Awards-Prize-To-TV.html>.

¹³ See INT'L FED'N OF HUMAN RIGHTS, OBSERVATORY FOR THE PROTECTION OF HUM. RTS. DEFENDERS ANNUAL REPORT 2006 - TURKMENISTAN, Mar. 14, 2007, <http://www.unhcr.org/refworld/docid/48747ceec.html>.

¹⁴ *Id.*

¹⁵ Amnesty International, TURKMENISTAN: ARBITRARY DETENTION/FEAR OF TORTURE, June 18, 2006, <http://www.amnesty.org/en/library/info/EUR61/003/2006/en>.

¹⁶ See INT'L FED'N OF HUMAN RIGHTS, OBSERVATORY FOR THE PROTECTION OF HUM. RTS. DEFENDERS ANNUAL REPORT 2006 - TURKMENISTAN, Mar. 14, 2007, <http://www.unhcr.org/refworld/docid/48747ceec.html>.

¹⁷ Front Line Defenders, *Fears for Three Turkmen Human Rights Defenders Held Incommunicado* (Aug. 3, 2006), <http://www.frontlinedefenders.org/node/109>.

one month after their initial arrests. This violates Article 9 of the ICCPR, which states that “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.” This Article broadly protects individuals against arbitrary detention.

Prior to trial, and for over two months, Turkmen authorities held Mr. Amanklychev, Mr. Khadzhiyev, and Ms. Muradova *incommunicado* at the pretrial detention center of the Ministry of National Security. Mr. Amanklychev was sometimes held in solitary confinement under harsh conditions: he was deprived of food and water, and was often prohibited from using the toilet, which was located outside his cell. Turkmen authorities also threatened him and his family, injected him with psychotropic drugs, and deprived him of medical care. Throughout this time, Turkmen authorities provided no notice to Mr. Amanklychev of the actual charges against him. Government officials, however, issued public statements claiming that the men had been “trying to collect defamatory information about Turkmenistan and cause discontent among people.”

The Turkmen government provided Messrs. Amanklychev and Khadzhiyev with a state-appointed attorney, but this attorney avoided meeting them and tried to convince them to concede the charges. Meanwhile, Mr. Amanklychev’s chosen private attorney, Kakazhan Kadyrov, was deprived of basic information related to his client: Mr. Kadyrov learned of the espionage accusation on June 18, 2006 from a televised broadcast by the Minister of National Security, and he only learned of the munitions-related charges against Mr. Amanklychev a few days before the trial. In addition, Mr. Kadyrov was not made aware of Mr. Amanklychev’s trial date until just before it occurred.

On August 25, 2006, Mr. Amanklychev, Mr. Khadzhiyev, and Ms. Muradova were formally tried for “possession of illegal munitions.” It was a brief *in camera* trial that reportedly lasted only minutes.¹⁸ Although their private attorneys were allowed to formally attend the trial, the court denied Messrs. Amanklychev and Khadzhiyev’s requests to call witnesses on their behalf and generally prevented them from putting forth any defense. Meanwhile, soldiers prevented the defendants’ relatives and other members of the public from accessing the court;¹⁹ soldiers and police officers controlled the building’s courtyard and adjacent areas and recorded everyone who tried to access the court building. Mr. Amanklychev, Mr. Kadzhiyev, and Ms. Muradova were summarily convicted and each sentenced to between six and seven years in prison.²⁰ On several levels, this trial process violated Article 14 of the ICCPR, which states that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law” and have the right to “defend himself in person or through legal assistance of his own choosing.” With decisions handed down from above, the tribunals convicting these journalists were neither independent nor impartial. Nor were Mr. Amanklychev, Mr. Kadzhiyev, or Ms. Muradova afforded the opportunity to defend themselves in court.

¹⁸ International Federation for Human Rights, *Death in Detention: Turkmenistan*, Sept. 14, 2006, http://www.fidh.org/IMG/article_PDF/article_a3633.pdf.

¹⁹ *Id.*

²⁰ *Id.*

Nearly six years later, Messrs. Amanklychev and Kadzhiev remain imprisoned in Turkmenistan. Ms. Muradova died in custody shortly after her conviction.²¹ There has been a worldwide call for the release of Messrs. Amanklychev and Khadzhev, and Amnesty International has declared them prisoners of conscience.²²

Since Messrs. Amanklychev and Khadzhev's arrests, their families have faced harassment by Turkmen officials and have been prohibited from receiving certain government benefits or leaving the country.

b. Messrs. Amanklychev and Khadzhev Continue to Face Torture and Deplorable Prison Conditions

While in custody, Messrs. Amanklychev and Khadzhev have been subjected to torture and other physical abuse at the hands of the Turkmen government. Soon after their arrests, an Interior Ministry official involved in his detainment told Mr. Amanklychev's family, "[y]ou wouldn't recognize him. After three days of uninterrupted questioning, he's simply unrecognizable."²³ At the Ministry of National Security pre-trial detention center, Messrs. Amanklychev and Khadzhev were held in unbearable conditions, suffering humiliation at the hands of prison guards and officials from the special services of Turkmenistan. Eleven people were held in a cell with an area of six square meters and both men were denied food, clothing, medical attention, use of the lavatory, and other essentials. Temperatures reached 50 degrees centigrade and both men suffered unbearable thirst. They have been administered psychotropic drugs, beaten, intimidated, and threatened with harm to their families if they did not cooperate.

Moreover, Mr. Khadzhev's sister, colleague and co-defendant, Ogulsapar Muradova, was evidently tortured and likely murdered by Turkmen government officials while in government custody. On September 14, 2006, less than three weeks after she was convicted along with Messrs. Amanklychev and Khadzhev, Turkmen authorities informed Ms. Muradova's family that she had died. Though the government claimed she died of "natural causes," her mangled body showed evidence of physical abuse.²⁴ According to Ms. Muradova's relatives, when they retrieved her body, she had a head wound, bruises from strangulation, puncture marks from injections, and a broken leg.²⁵ Ms. Muradova's suspicious death in custody is telling of the circumstances Messrs. Amanklychev and Khadzhev likely continue to endure. The conditions all three journalists have faced, and which Messrs. Amanklychev and Khadzhev still face, violate the protections of ICCPR Article 7, which declares that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

²¹ *Id.*

²² <http://www.amnestyusa.org/individuals-at-risk/priority-cases/turkmenistan-annakurban-amanklychev-and-separdurdy-khadzhev/page.do?id=1361055>

²³ See Jean-Christophe Peuch, *Turkmenistan: Authorities Cast Wide Net in Conspiracy Allegations*, RADIO FREE EUROPE RADIO LIBERTY, June 20, 2006, <http://www.rferl.org/content/article/1069311.html>.

²⁴ Amnesty International, *Further Info. on UA 172/06* (July 4, 2006), <http://asiapacific.amnesty.org/library/index/ENGEUR610052006?open&of=ENG-TKM>.

²⁵ See Lucy Ash, *Grim Legacy of Grandiose Leader*, BBC NEWS, Dec. 21, 2006, <http://news.bbc.co.uk/2/hi/6201669.stm>.

It should be noted that the use of torture in Turkmen prisons is widely reported.²⁶ Commenting on this fact, exiled former Turkmenistan Foreign Minister Avdy Kuliev has observed, “I think it’s probably better to be sentenced to a firing squad than to be imprisoned in Turkmenistan.”²⁷

In addition to torture and other physical abuse, Messrs. Amanklychev and Khadzhev have been held in relative isolation from the time of their arrest. Having detained them since June 2006, Turkmen authorities did not allow Messrs. Amanklychev or Khadzhev to receive visitors until 2009. Even now, Mr. Amanklychev can only be visited by his wife, and she is only allowed to see him twice per year. Mr. Amanklychev can only receive parcels from his family twice per year. Similarly, Mr. Khadzhev can only be visited by his sister, and she is only allowed to see him once per year. Mr. Khadzhev can only receive parcels from his family once per year. Other individuals requesting visitation with either of the two men have been denied.

Finally, recent reports indicate that both Mr. Amanklychev and Mr. Khadzhev’s health has deteriorated and that they are suffering “ailments affecting the stomach, kidneys, legs and joints.”²⁸ Turkmen prison facilities are generally reported as being tuberculosis-ridden, overcrowded, and providing inadequate medical attention and nutrition.²⁹ Messrs. Amanklychev and Khadzhev are currently imprisoned in the Caspian Sea desert area in Turkmenistan,³⁰ which is known for its extreme hot/cold climate.³¹

IV. Conclusion and Recommendations

Messrs. Amanklychev and Khadzhev’s case is, unfortunately, emblematic of Turkmenistan’s practice of denying the most basic human rights to its citizens, including several rights memorialized in the ICCPR—the right to freedom of association, right to freedom of expression, right to be free from arbitrary detention and to be informed upon arrest of charges against oneself, the right to defend oneself in a fair and public hearing by a competent, independent and

²⁶ See, e.g., *World Report 2011: Turkmenistan*, Human Rights Watch, available at <http://www.hrw.org/en/world-report-2011/turkmenistan>, and *Individuals Continue to be at Risk of Violations in Turkmenistan*, Amnesty International, available at <http://www.amnesty.org/en/library/asset/EUR61/001/2009/en/d17a0647-f8ef-11dd-92e7-c59f81373cf2/eur610012009en.pdf>.

²⁷ YouTube video: *President for Life – Turkmenistan* (Journeyman Pictures 2007), available at <http://www.youtube.com/watch?v=o6XK-yGi7NA> (last visited Dec. 17, 2009).

²⁸ See *Gas Contracts but No Press Freedom*, REPORTS WITHOUT BORDERS, Sept. 16, 2009, <http://www.rsf.org/Gas-contracts-but-no-press-freedom.html>.

²⁹ See INT’L FED’N OF HUMAN RIGHTS, OBSERVATORY FOR THE PROTECTION OF HUM. RTS. DEFENDERS ANNUAL REPORT 2006 - TURKMENISTAN, Mar. 14, 2007, <http://www.unhcr.org/refworld/docid/48747ceec.html>.

³⁰ See *Reporters without Borders Concerned over Conditions Faced by Turkmen Prisoners*, RADIO FREE EUROPE RADIO LIBERTY, Feb. 19, 2009, http://www.rferl.org/content/Reporters_Without_Borders_Concerned_Over_Conditions_Faced_by_Turkmen_Prisoners/1495824.html.

³¹ See *id.*

impartial tribunal, and the right to be free from torture or cruel, inhuman, or degrading treatment or punishment.

Freedom Now's recommendations to Turkmenistan are as follows:

- *Immediately release* Messrs. Annakurban Amanklychev and Sapurdurdy Khadzhev without any conditions.
- *Investigate* the circumstances of the torture and ill-treatment of Mr. Amanklychev, Mr. Khadzhev, and Ms. Murdova and, based on the results of such investigation, take appropriate legal measures against those responsible for that treatment. Adopt measures to ensure that Messrs. Amanklychev and Khadzhev receive full and adequate reparation for the harm they have suffered, including compensation and rehabilitation. Adopt measures to remedy the failings in Turkmenistan's police, trial, and appeals systems that enabled such ill prisoner treatment.
- *Investigate* the miscarriages of justice that led to the convictions of Mr. Amanklychev, Mr. Khadzhev, and Ms. Murdova. Adopt measures to remedy failings in Turkmenistan's police, trial, and appeals systems that enabled such violations of the rule of law.