



## International Covenant on Civil and Political Rights

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### Human Rights Committee

102nd session

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### List of issues to be taken up in connection with the consideration of the initial report of Turkmenistan (CCPR/C/TKM/1)

#### Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

1. Please state whether the provisions of the Covenant are directly applicable by domestic courts and to what extent they are invoked and applied. Where this has happened, please provide information. Please also provide information on the availability of remedies for individuals claiming a violation of the rights contained in the Covenant.
2. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. Please indicate what concrete action has been taken further to the Committee's Views adopted in respect of the State party.
3. Please explain whether any steps have been taken to strengthen the independence of the National Institute for Democracy and Human Rights, in line with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights adopted by General Assembly resolution 48/134 (Paris Principles).

#### Counter-terrorism measures and respect of Covenant guarantees

4. Please indicate the legislative measures that have been adopted to combat terrorism, and explain to what extent they may affect the rights guaranteed under the Covenant.

#### Non-discrimination, equality between men and women (arts. 2(1), 3 and 26)

5. Please indicate any legislative, administrative and policy measures relating to the prevention and protection against discrimination on all grounds including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and, in particular, whether disability-based discrimination is explicitly prohibited in the law. Please also explain the absence of a legal definition of discrimination which encompasses both direct and indirect discrimination and the fact that homosexual conduct between consenting men is illegal and punishable by up to two years in prison. Finally, indicate what measures are being taken to eliminate discrimination in the access to

higher education and the civil service through the application of the so-called “third generation tests”, which results in only candidates with ethnic Turkmen origins being deemed eligible for admission to these sectors.

6. Please provide information on the measures taken to improve de jure and de facto: (a) women’s status in the political, economic and social life of the country; (b) the percentage of women employed in positions of responsibility both in the private and public sector; (c) equal pay for equal work between men and women; and (d) literacy and school enrolment rates for women and girls. Please indicate specific steps taken to eliminate the persistent patriarchal attitudes and deeply rooted stereotypes in society (e.g. the revision of curricula and textbooks, awareness-raising campaigns) as well as measures taken to put an end to discriminatory actions, both in the public and private sectors, which legally or practically impair the equal enjoyment of rights by women and men. Furthermore, please indicate the policies and programmes adopted for ethnic and national minority women and girls, who remain in a vulnerable and marginalized situation and risk multiple forms of discrimination, in particular with regards to access to education, health, employment and participation in political and public life.

7. Please indicate any measures taken to revise the Labour Code which, allegedly, is overly protective of the role of women as mothers and therefore restricts their economic opportunities in a number of areas and allegedly creates obstacles to their participation in the labour market, particularly in the private sector.

#### **States of emergency (art. 4)**

8. Please provide information on the rights that are subject to restriction during a state of emergency declared pursuant to article 47 of the Constitution. Please provide updated information on the status of efforts to revise the law that governs states of emergency.

#### **Right to life (art. 6)**

9. Please provide statistical data and indicate the measures being taken to combat infant and maternal mortality, allegedly high in the State party. Please further respond to allegations that there are low levels of knowledge among the general population about how HIV/AIDS is transmitted and that there is a lack of means of protection from HIV/AIDS infection. Please state the measures taken, if any, to raise awareness about how HIV/AIDS is contracted, to promote safe sexual practices, and address problems of the diseases transmitted through drug addiction, especially among adolescents.

#### **Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 7, 9, 10 and 14)**

10. Please indicate what steps are being taken to include a definition of torture in the Criminal Code. Please explain how article 39 of the Criminal Code, which provides immunity for torture when committed in the national interest, is compatible with the Covenant. Please provide information on the measures taken to combat the alleged widespread torture and ill treatment of detainees and poor conditions in prisons. Please state any steps taken to grant independent bodies access to prisons and detention facilities, in particular, in response to inspection requests by the International Committee of the Red Cross.

11. Please respond to allegations that torture and ill treatment of detainees, including juveniles, is widespread, especially at the moment of apprehension and during pretrial detention, and is used to extract confessions and punish detainees after the confession is extracted. Please further respond to allegations that such confessions are used as evidence in court. What measures have been put in place to ensure that such practices are punishable under law and that such evidence is inadmissible in court proceedings? In addition, please provide information on: (a) whether there is an independent body to address complaints of torture or ill-treatment against the police or other officials; (b) the number of complaints received; (c) investigations carried out; (d) types of penalties imposed; (e) compensation awarded to the victims of torture or ill treatment, (f) availability of judicial remedy for unlawful detention; and (g) the extent of judicial oversight of detention.

12. Please provide information on the measures being taken to combat domestic violence against women. Please further explain whether measures have been taken to introduce specific legislation and programmes such as protection orders and shelter services for victims of violence against women, including domestic violence.

13. According to information before the Committee, persons below the age of 18 are subject to the same criminal procedure as adults and they may be held on remand pending investigation and charges for a period of up to six months. Please state the measures taken, if any, to ensure that the juvenile justice system complies with the Covenant and international standards. Furthermore, please provide information on the measures taken, if any, to reduce the period that persons are held on remand pending investigations and charges.

14. According to information before the Committee, a number of individuals who were convicted in December 2002 and January 2003 for their alleged involvement in the assassination attempt on the President in November 2002 continue to be held incommunicado. Please state the measures that the State party is taking, if any, to ensure that these people have access to lawyers and members of their family, and that their whereabouts are known to them.

15. According to information before the Committee, there is widespread corruption in the judiciary. Please indicate any measures taken to combat this, and also to improve the long-standing problem of judicial independence with regard to tenure and the organization of courts, including the reduction of executive influence in the judicial process. Furthermore, please explain the relationship between the executive office of the State Commission for the review of citizens' complaints and the jurisdiction of the courts. Finally, please respond to reports that, although due process in criminal proceedings is guaranteed under domestic law, it is in practice frequently denied to defendants (e.g. presumption of innocence, access to a lawyer, public trials).

### **Elimination of slavery and servitude (art. 8)**

16. Please provide information on any legal provisions expressly prohibiting trafficking in persons. Please provide information on: (a) the State party's efforts to prevent trafficking in human beings, which is allegedly prevalent among girls from minority ethnic groups; (b) the prevalence of this phenomenon, expressed in statistical data disaggregated by gender, age and ethnic origin; (c) the number of prosecutions, convictions and sanctions imposed on persons involved in human trafficking; (d) any training programmes for professionals involved in implementing the State party's measures against trafficking, including the police, the judiciary, members of the prosecution authorities and social workers; and (e) any programmes that are intended to assist victims of trafficking.

17. Please respond to allegations on the use of military conscripts to provide forced and unpaid labour to private employers. What measures have been taken, if any, to put an end to this?

**Freedom of movement and right to privacy (arts. 12 and 17)**

18. Please explain how the system of mandatory registration at the place of residence, which is a prerequisite for residence, work, purchase of real estate and access to public health services, is compatible with the right to freedom of movement within the country.

19. Please respond to allegations that there is a new Presidential decree that prohibits the exit and entry of 37,057 “listed” individuals. Please further respond to allegations that, in September 2009, dozens students were refused permission by authorities to continue their studies at the American University of Central Asia (AUCA) in Bishkek, Kyrgyzstan, following new requirements to seek and obtain permission to leave the territory of the State party. Furthermore, please respond to allegations that, in July 2010, holders of dual Russian-Turkmen passports were not allowed to leave the State party using their Russian passports – and how these measures comply with provisions of the Covenant. Finally, please explain how the provisions regarding foreign citizens infected with HIV/AIDS, who under certain conditions are subject to deportation, are compatible with the Covenant.

20. Please provide information on any measures taken to put an end to the forced resettlement policy which has been employed as a punishment for certain crimes and has also led to the forcible displacement of ethnic minorities. Furthermore, please state the measures that have been taken, if any, to remove restrictions on freedom of movement imposed through internal travel documents, which disproportionately affect national minorities.

21. According to information before the Committee, human rights activists and members of their families who seek to exercise their freedom of movement and expression are put under surveillance by State authorities. Please explain what measures have been taken to ensure that these surveillance activities comply with the provisions of the Covenant, especially in light of the reported absence of any laws regulating these activities by the State security apparatus. Does the State party have any plans to enact legislation in this regard?

**Freedom of religion and belief (art. 18)**

22. Please comment on reports that the Religious Organisations Law provides for compulsory registration of religious institutions; that religious institutions seeking to register and re-register face considerable difficulties and delays in obtaining a permit to conduct religious activities; and that non-compliance results in the imposition of harsh financial penalties. Furthermore, please explain how the Religious Organisations Law, which in effect prohibits private religious education at all levels, is compatible with the Covenant. Please respond to reports that the legislation on religious issues is generally vague and excessive and that these laws are arbitrarily enforced.

23. According to information before the Committee, military service is compulsory and those who decline to perform this service are subject to prosecution and imprisonment under the Criminal Code. Please provide information on measures being taken, if any, to put in place arrangements for conscientious objectors to military service to perform alternative service. Please further provide statistical data on: (a) the number of persons who have been arrested and convicted for objecting to serve in the military; and (b) the number of persons who have been relieved from military service as a result of being convicted twice for objecting to it, as provided for in the Conscription and Military Service Act.

24. Please explain how the prohibition on wearing religious costumes in public places, except for priests of religious organisations, is compatible with the Covenant. Furthermore, please respond to allegations that the importation of religious materials is tightly controlled and that such imports are often confiscated from believers by State authorities.

25. According to information before the Committee, the Ministry of Internal Affairs and the Ministry of National Security have allegedly undertaken raids on religious meetings and places of worship in order to prevent public and private religious gatherings. Furthermore, it is alleged that places of worship of diverse religious communities have been confiscated or even destroyed, and the building and renting of places of worship have also been obstructed by authorities. Please provide information on the measures taken, if any, to promote and protect freedom of worship by ensuring that there is no obstruction with regard to the building, opening, renting or use of places of worship and that religious communities are not deprived of their places of worship.

### **Freedom of opinion and expression, freedom of assembly and of association (arts. 19, 21 and 22)**

26. Please provide information on: (a) how freedom of opinion and expression is guaranteed in law and in practice, including all aspects of circulating information in any form; (b) the legal regime that regulates the ownership and licensing of the press and broadcasting media, as well as any regulations regarding internet, internet service providers and electronic libraries; (c) the existence of non-State controlled media, and (d) access to foreign periodicals and broadcasts. Furthermore, please respond to reports that the Government monitors internet use and blocks access to websites. Please explain the extent to which this regulation complies with the provisions of the Covenant.

27. Please explain how the system of licensing of journalists and prohibiting contact between local journalists and foreigners without State consent is compatible with the Covenant. According to information before the Committee, a number of journalists have been subjected to harassment by government authorities. Please respond to this, and especially allegations of serious harassment of local correspondents and collaborators of Radio Liberty. Furthermore, please state the measures that have been taken, if any, to stop interference with the local transmission of Russian language programmes on Radio Mayak. Please also provide information on the number of journalists and human rights defenders who have been arrested and convicted for allegedly violating media or other laws.

28. Please provide information on the measures taken, if any, to improve freedom of assembly and peaceful association following General Assembly resolution 59/206 of 20 December 2004, which expressed grave concerns over these matters. Please further respond to reports that a Law on Public Associations in 2003, as since amended, is highly restrictive, in that it provides inter alia for: (a) the compulsory registration of public associations; (b) prohibits the activities of unregistered groups; (c) imposes liability for individuals who act on behalf of such groups; (d) requires that a minimum of 50 and 500 members for an association be registered at the local and national levels respectively; and (e) contains onerous obligations on associations to report to authorities. Please further provide information on the number of associations that are currently registered in the State party but not controlled by State authorities. Finally, please indicate whether the State party is willing to grant international non-governmental organizations greater access to its territory and allow independent civil society activists to meet with international delegations from the United Nations and regional organizations for the purpose of assessing the enjoyment of Covenant rights on the territory of the State party.

### **Non-discrimination, marriage, family and measures for the protection of minors (arts. 2, 23, 24 and 26)**

29. Please respond to reports that the legal age of marriage discriminates against Turkmen citizens when they marry foreigners or stateless persons. What measures have

been taken to amend the law on the legal age of marriage to ensure that it complies with the Covenant?

30. Please respond to allegations that children are still used for cotton harvesting, despite the enactment of a new law prohibiting this. Please indicate any measures taken to prevent and combat child labour and ensure effective implementation of the aforementioned law.

### **Right to participate in public life and vote in free and fair elections (art. 25)**

31. Although article 30 of the Constitution declares the right to form political parties, there is no legislative framework in the State party for implementing this right and reportedly all opposition parties have been prohibited. Please explain what measures are being taken to provide an environment in which opposition parties can attain secure legal status and participate fairly in genuine periodic elections.

### **Rights of persons belonging to minorities (art. 27)**

32. Please provide information on any measures being taken to improve minorities' access to employment, particularly in the public sector, and their participation in all decision-making bodies, particularly in those bodies whose decisions have a direct impact on their welfare. What measures have been put in place to put an end to the alleged forced assimilationist policy of "Turkmenisation", which is claimed to exist in the fields of employment, education and political life? Please also respond to allegations that there are impediments to ethnic and national minorities' rights to enjoy their own culture (e.g. due to the closure of minority cultural institutions and numerous schools teaching in minority languages, as well as reduced opportunities in the media to use minority languages).

33. Please explain what is being done to respond to instances of hate speech against national and ethnic minorities, including by high-ranking government officials and public figures supporting Turkmen ethnic purity. Please comment on how the deprivation of citizenship on the basis of national or ethnic origin is compatible with the Covenant.

### **Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

34. Please provide information on the steps taken to disseminate information on the Covenant and the Optional Protocols, the submission of the initial report of the State party, and its forthcoming examination by the Committee. Please also provide more information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations, and the national human rights institution in the preparatory process for the report.