



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Ninety-first session

### Summary record of the 2503rd meeting

Held at the Palais Wilson, Geneva, on Thursday, 1 December 2016, at 10 a.m.

*Chair:* Mr. Crickley

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Eighth to eleventh periodic reports of Turkmenistan* (continued)  
(CERD/C/TKM/8-11; CERD/C/TKM/Q/8-11)

1. *At the invitation of the Chair, the delegation of Turkmenistan took places at the Committee table.*
2. **Mr. Tayliev** (Turkmenistan) said that 27.4 per cent of the 125 members of the Mejlis, the national parliament, were women, which was an unusually high ratio for the Central Asia region. There were eight parliamentary committees, which dealt with: human rights and freedoms; legislation; economic policy; social policy; education; science and youth policy; the environment and the agro-industrial complex; interparliamentary relations; and cooperation with representatives of local authorities. The Mejlis played a major role in promoting compliance with the country's international obligations through the drafting and enactment of relevant legislation.
3. The Constitution adopted on 14 September 2016 was based on an entirely new draft. It contained articles reflecting the content of international human treaties, for instance an article guaranteeing the right to free legal aid. In addition, the new Constitution enshrined the principle of political diversity and pluralism, and required the State to establish the requisite conditions for the development of civil society. There was a section dealing with the economic, financial and credit system. Everyone was guaranteed the right to own, use and manage property individually and jointly with other parties. Forced labour and the worst forms of child labour were prohibited. Article 9 recognized the primacy of international norms, which were incorporated in national legislation.
4. The National Action Plan on Human Rights provided for the enactment of a law establishing the Human Rights Ombudsman as an institution that complied with the Paris Principles and the recommendations of human rights treaty bodies. The idea had been raised by the President of Turkmenistan in 2014 and the Mejlis had established a working group to draft the legislation. It had examined the voluminous material pertaining to international human rights law and the standards applicable to national human rights institutions, including the Paris Principles. The working group had cooperated closely with the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Human Rights (OHCHR), and other international organizations and experts, and recommendations by United Nations treaty bodies had been taken into account. The provisions of the bill had then been scrupulously analysed by Turkmen and international experts.
5. The procedure for nominating candidates for the office of Ombudsman was a key issue. Article 4 of the Act, which had just been adopted, stipulated that the Mejlis would select by a secret ballot and a simple majority one of three candidates proposed by the President. In view of the non-political nature of the Ombudsman's activities and the requirement of independence, the candidate could not be a member of a political party or a civil society association involved in political activities. The Act permitted the Ombudsman to seek the assistance of competent authorities in analysing complaints. An annual human rights report would be submitted to the President, who would present it to the Mejlis. The Act would enter into force on 1 January 2017.
6. **Ms. Amanniyazova** (Turkmenistan) said that eight thematic volumes of statistics had been published following the 2012 Population and Housing Census and submitted to the Government. The reliability of the data had been confirmed by international experts from the United Nations Population Fund (UNFPA) and the United Nations Children's

Fund (UNICEF). The volumes contained data regarding ethnicity based on the principle of self-identification.

7. The results of the census had not been widely published because Turkmenistan had not yet joined the data dissemination system of the International Monetary Fund. It was currently engaged in preparatory work to that end. During the current year, steps had been taken to disaggregate data by ethnicity and race. Turkmenistan had also begun to monitor progress towards achieving the Sustainable Development Goals by 2030, and it had begun to collect metadata in line with the recommendations of the 46th session of the United Nations Statistical Commission in 2015. Such data was disaggregated according to gender, ethnic background, race and other criteria, drawing on a wide range of sources.

8. **Mr. Geldimammedov** (Turkmenistan) said that there were currently more than 1,850 schools in Turkmenistan. Russian was the language of tuition in at least 70 schools, including four in Daşoguz Province. There was also one joint Turkmen-Russian school and one joint Turkmen-Turkish school. The following languages were taught in the general education system: English, French, German, Chinese, Japanese, Arabic and Persian. Textbooks had been published in all those languages.

9. Students of more than 20 nationalities studied in higher education establishments. They included Uzbeks, Russians, Iranians, Azerbaijanis, Tajiks, Tatars, Baluchis, Lezghins, Armenians, Karakalpaks, Uighurs and Koreans. Tuition was provided in Turkmen, which was the official language. A quota of students from Afghanistan and Tajikistan could benefit from State support and free housing. The subject in school syllabuses devoted to the State and law included material on human rights. Representatives of ethnic minorities could submit a request to local educational authorities in districts where tuition in specific languages was required. An average of 30 pupils was necessary to introduce such classes.

10. **Mr. Tayliev** (Turkmenistan) said that, pursuant to article 4 of the Bar and Advocacy Act, the State guaranteed professional legal assistance for all. In addition, free legal assistance was provided in cases specified in article 7 of the Act, for instance access to legal documents upon the death of a breadwinner, and assistance for war veterans and conscripts, persons with category I or category II disabilities, pensioners, *Ene Mahri* mothers with many children, and orphans. Article 29 of the Act on combating human trafficking adopted in October 2016 provided for free legal, medical and psychological assistance for victims of trafficking and the free services of an interpreter.

11. With regard to the question concerning paragraphs 116 and 117 of the report, he confirmed that, pursuant to articles 101 and 107 of the Criminal Code, aggravating circumstances could entail a more severe sentence in such cases. On 23 November 2016 the Mejlis had adopted amendments to the Criminal Code and the Administrative Offences Code. The amendments to the Criminal Code reflected norms enshrined in international treaties, and the amendments to the Administrative Offences Code introduced administrative liability for offences pertaining to human trafficking. The provisions of international treaties were incorporated into domestic legislation, which was permanently monitored to ensure its conformity with the treaties ratified by Turkmenistan.

12. **Ms. Atajanova** (Turkmenistan) said that the National Plan of Action for Gender Equality in Turkmenistan for 2015-2020 had been adopted in 2015, the National Action Plan on Human Rights in January 2016, and the National Action Plan on Combating Human Trafficking and the National Action Plan on the Implementation of Humanitarian Law in March 2016.

13. Meetings had been convened to develop procedures for implementing the National Action Plan on Human Rights. A road map identified key ministries and deadlines for specific activities. Several pieces of legislation had been enacted or amended, for example the Act establishing the Human Rights Ombudsman, the Act on combating human

trafficking, and amendments to the legislation on health care and psychiatric assistance. Two projects under the Action Plan were currently being discussed. The Supreme Court was engaged in discussions aimed at enhancing the role of law enforcement agencies in promoting human rights, and amendments to labour legislation were being considered with a view to enhancing labour rights. It was also essential to build an effective and comprehensive monitoring system. Concepts, strategies and indicators based on international experience were being developed for the purpose.

14. Certain activities and events under the Action Plan were based on the Committee's recommendations, such as measures to create a conducive environment for ethnic and other vulnerable groups, the organization of celebratory events, and the establishment of advisory mechanisms for such groups. As it was important to benefit from other countries' experience, Turkmenistan had considered the possibility of convening a regional conference to exchange experience on procedures for collaborating with representatives of ethnic minorities. The Ministry of Education planned to develop a comprehensive human rights education programme for establishments at all levels of education.

15. The interdepartmental commission responsible for ensuring compliance with the international human rights and humanitarian law obligations undertaken by Turkmenistan had been directly involved in the drafting of the State party report. Moreover, a series of dialogues had involved a variety of participants, including parliamentarians and academics. Human rights resource centres, which were linked to higher education establishments, had been established in the capital city and in each of the country's regions. Some of the key issues in the report had been discussed at seminars, and the Committee's concluding observations would also form the basis of talks in the regions involving young people and civil society organizations. Since 2007, the National Institute for Democracy and Human Rights had been working with law enforcement agencies, organizing seminars to ensure that law enforcement personnel were aware of the provisions of the international conventions to which Turkmenistan was party and of the concluding observations of the United Nations human rights treaty bodies.

16. **Mr. Tayliev** (Turkmenistan), responding to a question raised by Mr. Yeung Sik Yuen in the previous session, said that as stated at paragraph 73 of the report there were a number of laws prohibiting and punishing incitement to ethnic or racial hatred, discord or contempt, or recourse to violence on ethnic, racial or religious grounds. There were, however, different levels of criminal or civil liability in Turkmenistan depending on the gravity of the offence. For that reason, article 145 of the Criminal Code, regarding violations of equal rights, referred to punishment for acts having "serious consequences". Offences of a less serious nature were punishable under the Code of Administrative Offences. In addition, for certain acts, discrimination was also considered to be an aggravating factor; thus, all offences related to racial discrimination were liable to punishment, including when committed in the workplace. In that connection, administrative sanctions could be imposed on employers who were in breach of article 7 of the Labour Code, which prohibited the restriction of labour rights on the grounds of racial and other forms of discrimination.

17. **Mr. Haljanov** (Turkmenistan) said that, under the Political Parties Act of January 2012, citizens had the right to associate in political parties and to form political parties and participate freely in their activities. As a result of the Act, two new political parties — the Industrialists and Entrepreneurs Party and the Agrarian Party — had been set up. In view of a law prohibiting the commander-in-chief of the armed forces from being a member of a political party, the President of Turkmenistan had announced he would step down as the leader of the Democratic Party for the duration of his presidency. As to the independence of the judiciary, pursuant to the Courts Act judges were subject only to the law and were appointed by the President for a five-year period. The possibility of appointing judges for

an indefinite period was currently being explored. The Constitution provided guarantees in relation to the right to freedom of artistic, scientific and technical expression and to participate in cultural life. Similarly, a law on culture also guaranteed to all persons the right to cultural expression, including traditional and ethnic customs, languages and dialects, irrespective of, inter alia, their ethnic background, religion, gender or political affiliations.

18. The rights of minority groups in Turkmenistan were taken very seriously. In that connection, a regional conference on cultural values had been held in Turkmenistan and attended by members of the Commonwealth of Independent States. The Turkmen city of Daşoguz had been declared the 2016 cultural capital of that Commonwealth. The country had friendly relations with other cultures, and the contributions of ethnic minorities in Turkmenistan were marked. By way of example, awards and honorary distinctions had been granted during recent celebrations to commemorate the twenty-fifth anniversary of the country's independence, some of the recipients of which had belonged to minority groups.

19. Media legislation in Turkmenistan governed the collection and dissemination of information and defined the rights and obligations of journalists and media organizations. Moreover, the Government provided for all the appropriate circumstances to enable the proper functioning of the media, and a range of new newspapers and digital media publications and websites had emerged over the years, providing objective information about Turkmenistan, in relation to both its achievements and its problems.

20. As to a question regarding the case of Mansur Mingelov, who was of Persian and not Baluch origin, the facts were that the individual had been tried and sentenced for an offence in 1998 before being given early release as part of a presidential amnesty. He had again been arrested in 2012 and convicted of child pornography and drug trafficking offences. He was currently serving a 22-year prison sentence, during which time he had not been subjected to any cruel treatment and was receiving correspondence and visits.

21. **Mr. Geldimammedov** (Turkmenistan) said that higher education institutions such as the International University of Humanities and Development provided teaching in English, which showed that reforms were taking place in the educational sector.

22. **Ms. Atajanova** (Turkmenistan) said that the age at which people could marry in Turkmenistan was 18 years for both women and men. The marriageable age could, in exceptional cases, be lowered to 17 years of age if there were substantial grounds for doing so.

23. **Ms. Amanniyazova** (Turkmenistan) said that internal migration figures included statistics on movement from rural to urban areas, including to the capital city. In 2015, the Ministry of Labour and Social Protection had launched a programme and associated measures for the period 2015-2020 with a view to improving employment opportunities in Turkmenistan, in particular to enhance employment, provide incentives and create conditions conducive to working in regional areas and far-flung parts of the country. The requirement to register in cities had been introduced as part of efforts to reduce unemployment and regulate the job market. In that connection, the Ministry also advertised job vacancies and organized job fairs to encourage employment. The average monthly wage in Turkmenistan was, in 2015, equivalent to around US\$ 360. Each January, wages, pensions and benefits were increased by around 10 per cent, which meant that the average monthly wage in 2016 would probably be more like US\$ 400.

24. Regarding the expropriation of homes as part of urbanization efforts, a reconstruction programme was under way in the capital city, Ashgabat. Clear rules were in place to regulate the demolition of privately owned properties and those were applied across the board, irrespective of the ethnic origin of the owner. There were various options open to owners in respect of compensation. By way of example, owners could receive another property of comparable value or size at no extra charge. They could, however,

choose to upgrade to a more comfortable dwelling, in which case they would pay the difference between the value or square meterage of their previous property and the superior accommodation.

*The meeting was suspended at 11.15 and resumed at 11.30.*

25. **Ms. Hohoueto** (Country Rapporteur) said that it would be useful to learn what criteria had been used in selecting the organizations that had helped to draft the State party's combined eighth to eleventh periodic reports. The Committee would also appreciate more detailed information on how groups displaced from urban to rural areas were integrated into their new communities; why individuals were required to register a city when moving there; and whether persons working in public education institutions were in fact required to wear Turkmen ethnic clothing. With regard to the land that had been transferred to private ownership, she would like to know whether the owners in question were members of the local population or, rather, agricultural entrepreneurs; if the latter, it would be interesting to learn what criteria were used to identify eligible entrepreneurs.

26. **Ms. Atajanova** (Turkmenistan) said that the President of Turkmenistan had entrusted the drafting of the combined periodic reports to an interdepartmental commission made up of a number of institutions and organizations specializing in the field of human rights. The resulting draft report had then been discussed at a number of meetings held in the capital and throughout various regions with representatives of the commission.

27. **Mr. Geldimammedov** (Turkmenistan) said that similar to the practice of many schools around the world, the policy on staff uniforms, including colours, was set by the head of each educational institution.

28. **Ms. Amanniyazova** (Turkmenistan) said that individuals were not required to register with the authorities when moving from rural to urban areas unless they were seeking employment or housing. Although collective and state farms had been turned over to peasant associations in mid-1995, the current system was a hybrid one in that most land continued to belong to the State and production was managed by peasant associations. Both short- and long-term leases were available and essentially free of charge. Some land was privately owned but the size of such plots was tightly regulated by legislation. The overwhelming majority of crops were subsidized by the Government.

29. **Mr. Yeung Sik Yuen** said that the delegation should clarify how article 145 of the Criminal Code had read prior to its amendment in November 2013, especially in the light of the fact that no offences had been registered under that article since 2010, meaning that no cases had been brought under either the old or the new version. He reiterated his request that the delegation should comment on the overly restrictive terms of the article, according to which a violation of equal civil rights was a punishable offence only if it entailed "serious consequences".

30. The delegation should clarify whether the judges were first nominated by the Supreme Court or by the President before their names were submitted for confirmation by the Mejlis. He recommended that the Government, in reviewing the length of terms of appointment and other related matters, should take a cautious approach to such issues as converting judges' appointments into life terms. It was positive, in that regard, that the Government was reviewing international practice before considering any changes. He would like to know whether the five-year appointments currently in place were renewable and, if so, who the longest-serving judge was. Additional information on the hierarchical structure, if any, of the judiciary would also be welcome.

31. **Mr. Tayliev** (Turkmenistan) said that international practice varied considerably in the appointment of judges; for the time being, his Government was confident that it had

chosen the best policy. He would convey the Committee's comments to the legislature so that they could be taken into consideration during the drafting of any updated legislation.

32. **Mr. Avtonomov** said that, in its combined periodic reports (CERD/C/TKM/8-11, para. 24), the State party stated that it had incorporated virtually all of the Convention's provisions into national legislation. The delegation should clarify whether that statement was also true for the new Constitution. In addition, he would like to know whether the Government of Turkmenistan intended to ratify the amendments to article 8 of the Convention and to make a statement with regard to article 14 of the Convention.

33. **Mr. Murillo Martínez** said that he would like to know, in relation to racial discrimination in the workplace, whether the burden of proof lay with the accused or with the alleged victim. The delegation should also indicate whether the Government had conducted surveys or awareness-raising campaigns about discrimination in the educational sector; and whether it had provided training relating to racial discrimination and xenophobia to law enforcement officers. It would be interesting to learn about any measures taken within the context of the Sustainable Development Goals and of General Assembly resolution 68/237 on the proclamation of the International Decade for People of African Descent.

34. **Mr. Tayliev** (Turkmenistan) said that the Interdepartmental Commission and various ministries were involved in the implementation of international treaties. The Government would review the amendments to article 8 of the Convention and engage in an exchange of views with those institutions before making a final decision in that regard. The new Constitution recognized the inalienability of human rights and freedoms and the supremacy of international law, which was directly applicable in Turkmenistan. All legislation was adopted on the basis of such provisions; if any new piece of legislation ran counter to international law, it would be deemed unconstitutional and would be either amended or repealed. As for the burden of proof in cases of alleged racial discrimination in the workplace, the principle of the presumption of innocence was enshrined in the Constitution, the Criminal Code and all liability law in Turkmenistan. Therefore, the burden of proof lay with the accuser rather than with the accused.

35. **Mr. Geldimammedov** (Turkmenistan) said that Turkmenistan, as a multi-ethnic State, demonstrated great tolerance in all contexts, including education. Turkmen students learned not only about the history of their own country, but also about world history. Students of more than 21 different nationalities were currently studying in higher education institutions in Turkmenistan; a number of those students had received scholarships from the Government. The teaching staff was similarly diverse.

36. **Mr. Amir** asked whether the secular nature of the State party was expressly protected by its Constitution. Since he understood that Turkmenistan was a Muslim country, he wished to know whether Islamist movements within Turkmenistan sought to challenge the secular nature of the State. He asked for an explanation regarding the institutional structure of Turkmenistan and the seat of executive power.

37. **The Chair** suggested that the delegation should also answer questions raised the previous day about the ways in which Muslims were reportedly subjected to harassment and profiling.

38. **Mr. Khalaf** asked for clarification of the meaning of the term "ethnically homogeneous", which had been used by the delegation the previous day.

39. **The Chair** asked how the three candidates for the position of Ombudsman submitted to parliament by the President were chosen.

40. **Ms. Mohamed** asked for more information on the participation of minority groups in cultural activities and whether they were present in civil society associations, in

particular those that campaigned for human rights. With respect to the provisions of the Family Code on marriageable age — which was 18 in most circumstances — she wished to know whether foreign citizens were subject to the same provisions.

41. **Mr. Tayliev** (Turkmenistan) said that article 1 of the Constitution stated that Turkmenistan was a democratic, law-based, secular State governed as a presidential republic. According to Article 68 of the Constitution, the President was the head of State and of executive power. Conflict caused by the existence of different religions, including Islam, was not a problem in his country, essentially because it was a democratic and secular country. Under a law adopted in November that year, when selecting candidates for the role of Ombudsman, the President considered a wide range of people and heard proposals from different sources before submitting three candidates to parliament. Parliament could reject all three candidates, in which case the President was entitled to present three more. The process was democratic, since the Ombudsman was elected by members of parliament, who represented the people, and therefore adhered to the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

42. **Ms. Amanniyazova** (Turkmenistan) said that the term “ethnically homogeneous” had been used to mean that the majority of the population was of Turkmen ethnic origin. That usage was not entirely correct.

43. **The Chair** noted that the questions put by Mr. Bossuyt had not been answered. She therefore asked whether there were any cases in which the provisions of the Convention had been applied by the courts, how officials and the law enforcement agencies implemented the Convention, once they had been made aware of it, and how that activity was monitored. She asked whether women from ethnic minority groups, such as the Baloch, experienced discrimination in access to education, health care and housing. Information should be provided on the grounds on which freedom of information could be restricted, as stated in paragraph 97 of the report, and what publicity was given to restrictions of that freedom and how the restrictions were enforced. The delegation should provide information about residence permits and family visas that had been issued, and explain the basis for those decisions. With respect to the protection of refugees, details should be given of specific programmes, the government bodies responsible for those programmes and the budgetary resources provided for their implementation. More detailed information should be provided on awareness-raising measures to tackle racial discrimination.

44. **Ms. Atajanova** (Turkmenistan) said that, under the Convention and domestic legislation, there were no limits on cultural participation or involvement in civil society activities or organizations. With respect to marriageable age, the Legal Status of Foreign Nationals Act provided that foreign citizens enjoyed the same rights as Turkmen citizens, except with respect to suffrage and military service.

45. The National Action Plan on Human Rights included a range of measures to implement the human rights treaty obligations of Turkmenistan, including its obligations under the Convention. Activities included round-table meetings, media broadcasts, interviews with the press and events targeting young people. On Human Rights Day, events took place across the country to raise awareness of the human rights treaties that had been ratified by Turkmenistan. The local authorities and law enforcement agencies were included in those events, to ensure that all were aware of the goal of furthering the implementation of the Convention.

46. **Mr. Geldimammedov** (Turkmenistan) said that, under the Education Act, there was no discrimination in education. Members of the Baloch community were represented among teachers and students in higher education, and included one teacher on the staff of a leading institution, the Turkmen State University. They experienced no obstacles in terms of access to education.

47. **Ms. Amanniyazova** (Turkmenistan) said that ethnic origin, gender or other factors did not affect access to housing or health care, which was available on an equal basis with persons of Turkmen ethnic origin.

48. **Ms. Hohoueto** thanked the delegation for their participation in the interactive dialogue. The responses provided would help the Committee to prepare its concluding observations.

49. **Mr. Tayliev** (Turkmenistan) thanked the Committee for their comments and proposals. His delegation looked forward to receiving the Committee's concluding observations.

50. **The Chair** said that, despite progress, notably in the establishment of structures to implement the Convention, more information was needed on a number of issues. The Committee looked forward to further engagement with the State party.

*The meeting rose at 12.50 p.m.*