



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

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Item 4 of the provisional agenda

**Consideration of reports submitted by States parties  
under article 19 of the Convention**

## List of issues in relation to the second periodic report of Turkmenistan

Addendum

## Replies of Turkmenistan to the list of issues\*

[Date received: 22 August 2016]

## Replies to the list of issues in relation to the second periodic report of Turkmenistan on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1. With reference to the Committee's previous concluding observations and the information provided in the State party's report regarding the addition of article 182 to the Criminal Code establishing criminal liability for torture, please provide further information regarding whether the State party has taken measures to ensure that the prohibition against torture is non-derogable and cannot be abrogated in times of emergency or martial law pursuant to article 47 of the Constitution.

1. The Constitution of Turkmenistan guarantees protection from cruel, inhuman or degrading treatment or punishment. Article 23 of the Constitution provides explicitly that: "No one may be restricted in or deprived of his or her rights, convicted or punished, except in strict compliance with the law. No one may be subjected to torture or cruel, inhuman or degrading treatment or punishment."

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\* The present document is being issued without formal editing.



2. The inviolability and inalienability of human rights and freedoms are enshrined in article 18 of the Constitution, which states clearly that: “No one may deprive a person of any rights or freedoms or restrict his or her rights or freedoms, except as provided for in the Constitution and the law.”

3. In accordance with article 47 of the Constitution, citizens’ enjoyment of their rights and freedoms may be suspended only during the imposition of a state of emergency or martial law, in the manner and within the limits established by the Constitution and the law.

4. Article 23 of the Martial Law Act states that, in times of martial law, citizens enjoy all the rights and freedoms provided for in the Constitution, with the exception of those rights and freedoms that are restricted by the Act. These restrictions are occasioned by the measures that are temporarily put in place when martial law is imposed for the sole purpose of upholding the martial law regime; the prohibition against torture is in no way abrogated. In accordance with article 12 of the Act, such measures include: the imposition of a curfew; the temporary relocation of residents to safe areas, where they must be provided with temporary accommodation; the restriction or deprivation of citizens’ right to choose their place of residence or stay; the imposition of restrictions on freedom of movement within the territory of Turkmenistan; and the introduction of special rules on entry into and departure from the territory of Turkmenistan.

5. Limits on the measures taken and temporary restrictions imposed during a state of emergency are established by the State of Emergency Act of 22 July 2013, which, likewise, does not abrogate the prohibition against torture.

6. For example, in accordance with article 19 of the Act, measures taken during a state of emergency that entail the restriction or suspension of the powers of State and local government bodies, of human and civil rights and freedoms or of the rights of legal persons as established by the Constitution, laws and regulations of Turkmenistan must not exceed such bounds as are required by the prevailing situation. The measures taken and temporary restrictions imposed during a state of emergency must be in compliance with the Constitution, the universally accepted standards of international law and the international instruments to which Turkmenistan is a party.

2. **With reference to the Committee’s previous concluding observations (para. 6) expressing deep concern over numerous and consistent allegations about the widespread practice of torture and ill-treatment of detainees in the State party, and its recommendation for the State party to take immediate and effective measures to prevent acts of torture and ill-treatment throughout the country, and also with reference to the State party’s addition of article 182 to the Criminal Code and the information provided in the State party’s report that no case of torture had been examined by the courts since the adoption of the article, please provide updated information regarding any investigations initiated into allegations of torture since the submission by the State party of its periodic report to the Committee. Please also provide information regarding any other specific measures taken to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment.**

7. According to the data available to the Ministry of Internal Affairs, to date, no complaints or allegations of acts of torture or degrading treatment have been received from detainees.

8. There have been no reported cases of torture or cruel treatment within the Ministry of Internal Affairs system.

9. According to the Ministry’s Information Centre, no criminal offences under article 1821 (torture) of the Criminal Code have been recorded.

3. **With reference to the Committee's previous concluding observations expressing concern that the Convention had never been directly invoked in domestic courts, please provide information on any cases in which this has occurred during the reporting period.**

10. As stated in article 23 of the Constitution, no one may be subjected to torture or cruel, inhuman or degrading treatment or punishment. The Criminal Code stipulates the penalties for such offences against life and health.

11. A law amending the Criminal Code was adopted on 4 August 2012. In particular, a new article 1821 established a separate criminal offence of torture. The definition of torture in the article corresponds exactly to that used in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 10 December 1984.

12. However, the Turkmen courts have not examined any cases under the article.

4. **With reference to the Committee's previous concluding observations expressing concern at the State party's failure to afford all persons deprived of their liberty fundamental safeguards against torture and ill-treatment from the very outset of detention, and taking into account the follow-up information provided by the State party, please provide information on:**

(a) **Whether article 24 of the Code of Criminal Procedure or any other legal act guarantees all persons deprived of their liberty, including detainees held in temporary holding facilities, access to a lawyer of their choice promptly following deprivation of their liberty. If so, please indicate how compliance with this safeguard against torture and ill-treatment is monitored by the authorities and whether any police officer or other official has been subjected to disciplinary penalties during the reporting period for denying a detained person access to a lawyer of his or her choice;**

(b) **Whether the Criminal Code continues to allow police officers to detain a person without the authorization of the Prosecutor General for 72 hours and without presentation before a judge for one year, or whether measures have been taken to significantly reduce those periods;**

(c) **Whether the State party has taken measures to ensure the right of all detainees to a medical examination by a doctor, and if possible a doctor of their choice, promptly following deprivation of liberty;**

(d) **Whether the juvenile justice system has been reformed so that the presence of both a lawyer and a parent or guardian is required in any case in which a minor is questioned by the police for any reason, even when the minor has not been designated as a suspect or an accused person. Please also provide information on whether any police officers have been disciplined for failing to ensure the presence of a lawyer and a parent or guardian during the questioning of a minor;**

(e) **Whether measures have been put in place to create a central register of persons deprived of their liberty, including persons detained on remand, and whether the lawyers and family members of persons deprived of their liberty have access to detention registries;**

(f) **Please indicate whether audio and video recording equipment has been installed in all police stations, remand centres and prisons. Please also indicate whether regulations require that interrogations be recorded, and describe measures**

**taken to ensure that investigators or other officials conducting questioning do not interfere with the operation of these devices. Please also provide information on any cases in which persons alleging that they were subjected to torture and ill-treatment during interrogation were able to obtain the video and/or audio records of their interrogation.**

**(a)**

13. In accordance with article 24 of the Code of Criminal Procedure, suspects, accused persons, defendants, convicted offenders and acquitted persons have a right of defence. They may exercise this right on their own behalf or with the help of a lawyer or legal representative as prescribed by the Code.

14. Detectives, investigators, prosecutors and the courts must ensure that suspects, accused persons, defendants, convicted offenders and acquitted persons have an opportunity to defend themselves using the means and methods established by law and that their personal and property rights are protected.

15. According to the available data, there have been no recorded instances during the reporting period of police officers being subjected to disciplinary penalties for denying a detained person access to a lawyer.

**(b)**

16. Under article 144 of the Code of Criminal Procedure, the criminal prosecution authority must inform the procurator that a suspect is being held within 24 hours of the arrest.

17. The procurator must, within 48 hours of being so informed, authorize the detainee's remand in custody or order his or her release.

18. The total period of detention of the suspect in all cases may not exceed 72 hours following arrest. If the grounds for detaining the suspect no longer obtain before the procurator authorizes remand in custody, the criminal prosecution authority must immediately release the detainee and inform the procurator thereof.

19. Remand in custody during the investigation of a criminal case may not exceed 2 months.

20. If there are no grounds for revising or revoking the preventive measure, this period may be extended for up to 6 months from the date of remand in custody with the authorization of a procurator of a province or a city with province status or his or her deputy. A further extension is possible only if the case presents special difficulty and must be authorized by the Procurator General of Turkmenistan or his or her deputy.

**(c)**

21. The measures taken to ensure the right of all detainees to a medical examination by a doctor, and if possible a doctor of their choice, are set out in article 179 of the Code of Criminal Procedure of 18 April 2009.

22. Medical services are organized and delivered in pretrial detention facilities in accordance with the legislation on health care, along with various therapeutic, preventive and epidemic control measures.

23. The procedures for the provision of medical care to persons detained on remand and for the use of medical facilities of the health-care system and the assignment of their personnel for that purpose are defined by the Ministry of Internal Affairs and the Ministry of Health and the Medical Industry.

24. Convicted prisoners have the right to medical care, including primary health care and specialized care, as outpatients or inpatients depending on their diagnosis. If necessary, or at the prisoner's request, an independent medical examination may be authorized (Penalties Enforcement Code of 25 March 2011, art. 8).

25. Under article 74 of the Penalties Enforcement Code, which regulates medical care for prisoners, medical services in correctional institutions must have the equipment, devices and drugs necessary to provide appropriate care and treatment for their patients, along with adequately qualified staff.

26. On the admission of a prisoner to a correctional institution and during his or her incarceration, the medical service must identify and treat any physical or mental illness or impairment that could hinder his or her rehabilitation. To that end, correctional institutions must be able to provide the necessary medical, surgical and psychiatric services.

27. Prisoners who need specialist services are transferred to secure hospitals or, if necessary, when this is dictated by their medical diagnosis, to regular medical establishments in order to receive emergency or specialized care, provided that they can be appropriately guarded and isolated.

28. The services of a qualified dentist must be available to every prisoner.

29. Medical units have been set up within places of deprivation of liberty to provide medical care to prisoners; those suffering from an active form of tuberculosis, alcoholism or drug or substance addiction are held and treated in secure hospitals. Compulsory treatment for prisoners suffering from alcoholism or drug or substance addiction may be administered in a correctional colony's medical unit.

30. The administration of a correctional institution is responsible for meeting the established health, hygiene and epidemic control requirements and for ensuring prisoners' health.

31. Medical care and preventive care for prisoners are organized in close cooperation with the local health authorities and are delivered in conformity with the legislation of Turkmenistan and the internal regulations of prisons.

32. The procedure for the provision of medical care to prisoners, for the organization and conduct of health and safety inspections and for the use of medical facilities of the health-care system and the assignment of their personnel for that purpose are established by the legislation of Turkmenistan, the internal regulations of prisons, and the legal and regulatory instruments of the Ministry of Internal Affairs, which are adopted in coordination with the Ministry of Health and the Medical Industry.

**(d)**

33. The questioning of minors is carried out in accordance with the requirements of chapters 27 (questioning, and confrontation of witnesses and suspects), 41 (hearing of evidence) and 49 (procedure in cases involving offences committed by minors) and articles 81 (participation of lawyers in criminal proceedings) and 82 (mandatory participation of lawyers) of the Code of Criminal Procedure.

34. In accordance with article 394 of the Code, the presence of a teaching professional is obligatory during the questioning of victims or witnesses aged under the age of 14 years, and — at the discretion of the court — the questioning of a victim or witness aged between 14 and 16 years must also take place in the presence of a teaching professional; whenever necessary, the parents or other legal representatives of the minor are to be called on to be present. With the permission of the judge or presiding officer, these persons may put questions to the victim or witness.

35. Before victims and witnesses under the age of 16 years are questioned, the judge or presiding officer explains to them the importance to the proceedings of giving full and truthful testimony. They are not warned as to the liability incurred by refusing to testify or knowingly providing false testimony, nor are they required to sign statements.

36. At the request of the parties or on the initiative of the court, victims or witnesses who are minors may be questioned without the defendant being present, in which case the court must hand down a decision to that effect. After the defendant has returned to the courtroom, he or she is informed of the testimony given by such victims or witnesses and has the opportunity to put questions to them and respond to their testimony.

37. Victims and witnesses under the age of 18 years are removed from the courtroom once they have been questioned, unless the court considers it necessary for them to remain.

38. There have been no cases in which police officers have been disciplined for failing to ensure the presence of a lawyer and a parent or legal representative during the questioning of a minor.

**(f)**

39. The use of audio and video recording during questioning is regulated by article 118 of the Code of Criminal Procedure.

40. Audio or video recordings may be made during questioning of suspects, accused persons, witnesses or victims by decision of the investigator or at the request of the person being questioned.

41. The investigator decides whether to make an audio or video recording and informs the person being questioned of that decision before the session begins.

42. Audio and video recordings must be uninterrupted, must fully reflect the testimony of the persons being questioned and must show the session in its entirety. If the recording is suddenly stopped or otherwise interrupted, the investigator must indicate in the record the cause and duration of the break. Making audio or video recordings of a part of the session or having testimony given during the same session repeated specifically for the audio or video recording is prohibited.

43. At the end of the session, the audio or video recording must be played back in its entirety to the person undergoing questioning. Additions to the recorded testimony made by the person being questioned are also included in the recording. The recording must end with a statement by the person that the recording is accurate.

44. Testimony given during questioning with the use of audio or video recording is entered into the record of the questioning in accordance with article 117 of the Code.

45. The record of the questioning must contain the following: a note stating that audio or video recording was used and that the person being questioned was informed thereof; information about the equipment used and the circumstances in which the audio or video recording was made, and the date and time of recording; a statement on the use of audio or video recording by the person being questioned; a note stating that the audio or video recording has been played back or shown to the person being questioned; and statements by the person undergoing questioning and the investigator attesting to the fact that the record of the questioning and the sound or video recording are accurate.

46. The audio or video recording is kept in the case file and is sealed at the end of the pretrial investigation.

47. If audio or video recordings of testimony are played back during another investigation, the investigator must note this in the report on that investigation.

48. There have been no cases in which persons were subjected to torture and ill-treatment during questioning; consequently, no requests to obtain video and/or audio recordings have been received.

49. In order to prevent breaches of the law, particularly human rights violations, video cameras are being installed at complaints counters where internal affairs officers take statements from the public and in interrogation rooms at internal affairs offices, as well as audio recording equipment in some locations.

**5. With reference to the Committee's previous concluding observations expressing deep concern about the functioning of the justice system, please provide information on any measures taken by the State party during the period under review to establish and ensure the independence and impartiality of the judiciary in line with the Basic Principles on the Independence of the Judiciary, including by eliminating the President's responsibility for the appointment and promotion of judges and guaranteeing the tenure of judges in office.**

50. The adoption, on 8 November 2014, by the Mejlis, the parliament of Turkmenistan, of the revised Courts Act and the revised Act on Enforcement Proceedings and the Status of Court Appointed Officers was a significant step in the reform of the country's judicial system.

51. The revised Courts Act establishes, in accordance with the Constitution, the legal and administrative framework for the exercise of judicial power by the courts, the procedure for appointing and dismissing judges, and the powers of judges.

52. Article 4 of the Act, on judicial independence, states that:

(1) Judges are independent, are subject only to the law and are guided by their inner conviction. Judges are accountable to no one when performing their functions in the administration of justice;

(2) Judges are not under any obligation to provide explanations in respect of cases they have heard or pending cases. To ensure the independence of judges, the privacy of their chambers must be ensured in all circumstances;

(3) Contempt of court, disrespect of judges and interference in their work are inadmissible and are punishable as established by law;

(4) The independence and inviolability of judges are guaranteed by law.

53. There are plans to set up a new centre within the structure of the Supreme Court: the Information Centre of the Supreme Court of Turkmenistan. The Centre will enable the general population to learn about judicial practice. It will also explain laws and liaise with the media. In addition, it will create a database of laws and related jurisprudence that form the legal basis for enhancing the protection of the human rights and freedoms and the State and public interests protected by the law.

54. The Act on Enforcement Proceedings and the Status of Court Appointed Officers governs issues related to the work of court appointed officers, is intended to ensure the timely and effective enforcement of court decisions, and defines the legal and institutional framework for enforcement proceedings in Turkmenistan and the status of court appointed officers.

55. With the adoption of this legislation, the country's legal framework was bolstered with instruments designed to strengthen law and order and thereby ensure the observance and full realization of the rights and freedoms of citizens.

56. On 15 January 2015, the President called on the country's legislative branch to reconsider the length of judges' terms of appointment, the procedures for submitting candidatures, and the rights and duties of the courts. Currently, the Mejlis and the relevant departments are analysing international experience and existing national legislation with a view to making amendments and additions to it.

**6. Please provide information on measures taken by the State party to prevent violence against women, including domestic and sexual violence, during the period under review. In particular, please provide information on:**

**(a) Whether any measures have been taken to prosecute and punish perpetrators of violence against women, including domestic and sexual violence;**

**(b) Whether public officials have undergone training on combating violence against women;**

**(c) Whether any measures have been taken to prevent child marriage;**

**(d) Data on compensation provided to women victims of violence, including the number of cases in which women victims of violence have received compensation and the amount awarded;**

**(e) Measures taken to protect women from violence, including the number of protection orders requested, the number of such orders granted during the reporting period and the number of shelters in the country and their capacity.**

57. The National Plan of Action for Gender Equality in Turkmenistan for 2015-2020 was approved by the President, Mr. Gurbanguly Berdimuhamedov, on 22 January 2015.

58. The National Plan of Action defines the overall strategy and sets the priorities of State policy with regard to gender equality and provides for the implementation of a comprehensive set of measures to inculcate the principles of gender equality in all spheres of life in Turkmenistan.

59. The Plan takes account of the recommendations made by the Committee on the Elimination of Discrimination against Women during the dialogue with Turkmenistan at the Committee's fifty-third session, in October 2012, those made by the Committee on Economic, Social and Cultural Rights in 2011 and the recommendations accepted by Turkmenistan in the context of the universal periodic review process in 2013.

60. The Plan is a comprehensive document that determines tasks and measures to promote gender equality in all spheres of life in Turkmenistan.

61. It provides for a number of specific steps, in various areas, to pave the way for the further expansion of women's participation in public, political, social and economic, cultural and humanitarian life in the country.

62. One of the tasks set in the Plan is the definition of priorities in combating all forms of violence against women. In this connection, the following actions have been identified:

- Conduct of research/studies on the prevalence of violence against women, the different types of violence and their root causes
- Holding of consultations with relevant stakeholders about the need for a draft law on establishing and developing a system for the prevention of domestic violence and all forms of violence against women

- Development of measures to raise public awareness of the country's zero-tolerance policy on violence against women

63. In the period 2014-2015, with the involvement of international experts, workshops were held to define the methodology for conducting the studies, as well as workshops examining the legislation of other countries on domestic violence and practice with respect to its application.

64. A draft questionnaire has been developed and is now under discussion.

65. In addition, it is planned to hold training on the conduct of interviews in 2016. Depending on the findings of the studies, proposals for amendments to current national legislation will be developed or the advisability of preparing a draft law on violence against women will be determined.

**(a)**

66. There is no specific offence of "domestic violence" in Turkmen legislation. However, under the Criminal Code, unlawful acts committed in the domestic sphere are criminalized. The relevant articles of the Code stipulate penalties for the commission of unlawful acts of degradation, humiliation or cruelty and for the infliction of various types of bodily injury, including on women.

67. The National Plan of Action for Gender Equality in Turkmenistan for 2015-2020 was developed to ensure the fulfilment by Turkmenistan of its obligations under the Convention on the Elimination of all Forms of Discrimination against Women and the Optional Protocol thereto; the Plan was approved by presidential decree on 22 January 2015.

68. To ensure that the measures set out in the Plan are fully implemented, changes have been made to the basic workplans of the Ministry of Internal Affairs and relevant units of the Ministry to incorporate the collection of data and the analysis of work on gender-sensitive issues.

69. Under the basic workplans for 2016, local police units plan to carry out a twice-yearly initiative known as "The Family". As part of the initiative, during a one-month period, checks will be conducted at the homes of persons who have previously committed dangerous or especially dangerous offences against a family member, and prevention work will be undertaken with them. When the exercise is completed, the results of the work done will be shared. Antisocial families will be placed on a special register. Adult members of these families will receive an official warning as to the inadmissibility of breaches of the law, with a record drawn up to that effect, and the possible legal consequences of their unlawful actions will be explained to them.

70. The Ministry intends to hold meetings and conduct outreach efforts with a view to the implementation of prevention and information and awareness-raising programmes on violence against women, including in the family.

71. The special plans drawn up each year by local units of the Ashgabat Police Department and province police departments, in conjunction with other law enforcement agencies and with the Turkmenistan Women's Union and the Makhtumkuli Youth Organization, provide for the conduct in enterprises and institutions, higher and specialized secondary education establishments and general education schools, at meetings and debates, of lectures during which women and girls receive instructions and advice on the themes "My family, my fortress", "My friendly, happy family", "The sanctity of the family begins with marriage", "A girl's honour is her people's honour" and "Equal rights of men and women".

**(b)**

72. Gender-specific aspects of work with female detainees have been included in the service and combat-readiness training programmes for personnel of special institutions.

73. In addition, with a view to the implementation of the measures referred to above, the management of the Ministry of Internal Affairs Institute, where future personnel of the internal affairs agencies are trained, has been instructed to review the content of the training courses on employment, family and administrative law and the law for the enforcement of penalties offered by the law faculty and the faculties of the special institutions and the internal affairs troops, to ensure that they incorporate specific topics, including the following: equality of the sexes; nature and causes of violence against women and their children; rights under the law and legal remedies available for victims/survivors of violence; legal duties of police officers when making arrests and providing protection and assistance; and methodology for reviewing cases of violence against women and their children.

**(c)**

74. The Juvenile Affairs Office of the Ministry of Internal Affairs regularly conducts appropriate initiatives to prevent child marriage; in the first six months of 2016, as part of those efforts, 8,795 sessions were held in schools and higher education establishments focusing on awareness-raising and prevention with respect to child marriage and prostitution, with the participation of representatives of the Juvenile Affairs Office and the educational institutions concerned, the health-care authorities, local government bodies, civil society organizations and the law enforcement agencies. Under the relevant plans, underage girls are given legal advice, receive counselling on family planning and pregnancy and are taught about the legal foundations of the family, inter alia. Special attention is paid to prevention work and regular one-on-one interventions with underage girls who are engaging in prostitution, with a view to averting early pregnancies. Similar work is conducted with their parents, who are given advice on the supervision, education, upbringing and maintenance of their children.

**(e)**

75. The appropriate units of the Ministry of Internal Affairs carry out targeted efforts to prevent violence against women. In the first six months of 2016, 1,051 complaints were received from women with a male family member who was abusing alcohol or periodically using narcotic drugs. Checks were carried out and, according to the outcome, some case files were passed to the investigating agencies under the police or the procurator's office as appropriate so that the acts committed could be evaluated under the country's law of criminal procedure. In the remaining cases, measures of an administrative or preventive nature were taken. For example, some of the persons concerned were placed on the police prevention register on account of their violent or abusive behaviour towards family members, and some were temporarily removed from society and sent to alcohol and drug rehabilitation centres by decision of the courts.

**7. Please provide information on any measures taken to prosecute and punish perpetrators of human trafficking with appropriate sanctions and to ensure that victims of trafficking obtain redress and are not detained or prosecuted for acts committed as a direct consequence of their situation.**

76. The National Plan of Action to Combat Trafficking in Persons for 2016-2018 was approved on 18 March 2016 by presidential decision.

77. Pursuant to the National Plan of Action, the interdepartmental working group that devised the Plan has begun work on draft standard operating procedures for identifying

victims of trafficking in persons. The goal is to ensure the identification of victims of all forms of trafficking in persons, including internal trafficking, so that their rights can be restored.

78. Under the Plan, in the near future it is intended to prepare draft regulations on the arrangements for referring trafficking victims to specialized assistance centres and on a mechanism to guarantee the safety of victims, including minors, and to take other measures.

79. A working group has been set up in the Mejlis to prepare a law on combating trafficking in persons.

80. In order to boost efforts undertaken as part of international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking in persons through the exchange of information and to harmonize legal procedures for the prosecution of traffickers, Turkmenistan has concluded the following bilateral inter-State agreements:

(1) The Agreement between the Government of Turkmenistan and the Government of Turkey on efforts to combat serious crime, particularly terrorism and organized crime, of 29 February 2012;

(2) The Agreement between the Government of Turkmenistan and the Government of Latvia on cooperation in combating terrorism, organized crime and the illicit traffic in narcotic drugs, psychotropic substances and their precursors, and other offences, of 14 May 2013;

(3) The Agreement on cooperation between the Ministry of Internal Affairs of Turkmenistan and the Ministry of Internal Affairs of the Russian Federation, of 25 March 2009;

(4) The Agreement between Turkmenistan and China on cooperation in combating terrorism, separatism and extremism, of 3 April 2006.

81. Regarding international cooperation for the prosecution of perpetrators of trafficking in persons, Turkmenistan engages in fruitful collaboration with the competent authorities of foreign States and specialized international organizations to identify these persons and ensure that they cannot evade punishment. Turkmenistan is a party to, or has concluded, the following instruments:

- The Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Minsk, 22 January 1993)
- The Treaty between Turkmenistan and Georgia on mutual legal assistance in civil and criminal matters, of 1996
- The Treaty between Turkmenistan and Uzbekistan on legal assistance and legal relations in civil, family and criminal matters, of 1996
- The Treaty between Turkmenistan and Armenia on legal assistance and legal relations in civil, family and criminal matters, of 2000
- The Treaty between the Government of Turkmenistan and the Government of the Islamic Republic of Iran on mutual legal assistance in criminal matters, of 2005
- The Treaty between Turkmenistan and Turkey on legal assistance in civil and criminal matters, of 2012

82. The Act on State Protection of Victims, Witnesses and Other Participants in Criminal Proceedings was adopted on 12 January 2016. The Act establishes a system of State protection for victims, witnesses and other participants in criminal proceedings, which includes security and social assistance measures for such persons, and also defines the basis and procedures for implementing the measures.

8. With reference to the Committee's previous concluding observations (para. 12), please provide information on:

(a) **The current status in the Mejlis of the draft Act on the Commissioner for Human Rights (Ombudsman), who would be invested with the power to consider complaints of human rights violations;**

(b) **Whether the Ombudsman would have functions such as the right to monitor detention facilities, to make the results of his or her investigations public and to ensure the implementation of his or her recommendations with respect to awards of redress to victims and the prosecution of perpetrators;**

(c) **Whether the Ombudsman's office will be established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including with a composition and means of appointment reflecting representation of civil society and with an infrastructure, including its own staff and premises and adequate funding, that ensures its independence from the Government, including from its financial control.**

83. The elaboration of the draft Act on the Commissioner for Human Rights has entered its final phase in the Mejlis. The recommendations made in the annex to General Assembly resolution 48/134 of 20 December 1993, which sets out the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), have been taken into account in the drafting process. Furthermore, consideration has been given to the recommendations made by countries during the dialogue that took place with the delegation of Turkmenistan as part of the universal periodic review process in March 2013.

84. In particular, the draft Act provides for the independent investigation of complaints of human rights violations and the publication of an annual report on the work done. The principles governing the work of the Commissioner for Human Rights, such as transparency, objectivity and impartiality, are enshrined in the law's provisions.

85. It is proposed that all the powers and functions assigned to the Commissioner should be embodied in the law, as that will safeguard the Commissioner's ability to carry out his or her work effectively and make objective evaluations of any case or situation involving violations of human rights and freedoms, including in correctional institutions and remand centres.

86. The Commissioner's broad powers and independence, the high social and political status accorded the office and the enshrinement in legislation of the institutional, legal and financial framework for the Commissioner's activities will serve as a guarantee of the Commissioner's genuine influence on the situation with respect to the protection of human rights and freedoms and of the success of his or her efforts to develop and expand international cooperation in this area.

9. **Please indicate whether the State party has taken measures to establish specialized juvenile court facilities and procedures, with adequate human, technical and financial resources, and has designated specialized judges for children, as recommended by the Committee on the Rights of the Child.**

87. The establishment of specialized juvenile courts is not advisable as the number of criminal cases tried is falling each year — 18 per cent fewer criminal cases in this category were tried in Turkmen courts in 2015 than in 2010. Moreover, such cases represent a small proportion of the total number of cases tried.

10. With reference to the Committee's previous concluding observations (para. 23), please provide information on:

(a) Any measures taken to transfer from the President to the judiciary the power to decide on the expulsion, return or extradition of a person to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture;

(b) Measures taken to guarantee that asylum seekers, including those which may face detention, have access to independent, qualified and free legal advice and to prevent refoulement, and whether they have the possibility to appeal denials of applications for asylum;

(c) Any proposed revisions of the detention policy with a view to bringing it into line with the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention published by the Office of the United Nations High Commissioner for Refugees;

(d) Any measures taken to establish and ensure the implementation of a standardized and accessible asylum and referral procedure at border points, including at international airports and transit zones.

88. The President's policy on humanitarian law is based on adherence to the international conventions to which Turkmenistan is a party.

89. Turkmenistan has acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

90. Turkmenistan was the first country in Central Asia to accede to these conventions. They are important instruments for effective action to prevent and reduce statelessness.

91. The Turkmen State consistently fulfils all the obligations it has undertaken and gives effect to the corresponding international standards and recommendations in its national legal framework. In 2012, revisions to the Migration Act and the Refugees Act were adopted; the revised Turkmen Citizenship Act was adopted in 2013.

92. In order to implement the 1951 Convention and the 1954 Convention, and to ensure the enjoyment of all rights by refugees and stateless persons living in Turkmenistan, pursuant to a presidential decision, new models were drawn up and approved for identity and travel documents for stateless persons and refugees and for residence permits in line with International Civil Aviation Organization standards, and legislation was adopted to regulate the legal procedure for their issuance. Turkmenistan thereby created a single system for the provision of personal identity documents.

93. New secure models for adhesive visa stickers were introduced in January 2012 in order to facilitate the entry of foreign nationals into Turkmenistan and ensure that they are provided with a high level of service. In accordance with international law, including the principles of family unity and favourable treatment of foreign nationals, foreigners are given the opportunity to live in Turkmenistan on the basis of a residence permit or visa issued on favourable terms. This is further evidence of the equal conditions being established for Turkmen citizens, foreign nationals and stateless persons alike, in accordance with the universally accepted precepts of international law.

94. Turkmenistan, as a permanent member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, actively facilitates the practical implementation of measures aimed at protecting and upholding the rights of

refugees and stateless persons. Faithfully fulfilling its international obligations and abiding by the generally recognized standards of international law, Turkmenistan has taken significant steps to protect refugees, thereby making an important contribution to the resolution of this global problem. The experience of Turkmenistan in this field has earned the respect and interest of the international community, which elevates the country's international standing.

95. The Refugees Act of 4 August 2012 defines the procedure and conditions for recognizing a person as a refugee, specifies the legal status of refugees and establishes the legal, economic and social safeguards for the protection of the rights of refugees.

96. Article 3 of the Acts defines the safeguards for the rights of refugees. No one is held liable for illegal entry into or stay in the territory of Turkmenistan if, on arrival from a territory in which his or her life or freedom was in danger, he or she reports promptly to representatives of State, administrative or local government bodies and files an application for refugee status.

97. No refugee may be returned against his or her will to the country he or she has left, except in cases involving the protection of national security or public order.

98. Decisions and acts by State, administrative or local government bodies and officials that violate the rights of refugees as set out in Turkmen legislation may be challenged before a higher authority or a court.

99. Persons whose applications for refugee status are registered, and their family members, have the right, during the period in which their applications are pending consideration, to free legal assistance on questions related to the granting of refugee status. In addition, they are entitled to the services of an interpreter free-of-charge for issues pertaining to the granting of refugee status; to information on the procedure for recognizing a person as a refugee and on their rights and duties, as well as other information as provided for in the relevant article; to temporary certification confirming that their applications for refugee status are under consideration; to free travel and transportation of their luggage to their place of temporary residence; to living space in a temporary accommodation centre with food provided free-of-charge; to free medical care and social services at the temporary accommodation centre; to temporary employment or education; to exemption from payment of duties, taxes and fees related to the refugee status application procedure as provided for in Turkmen legislation; and to transportation of their personal effects.

100. They also have the right to challenge a decision denying them refugee status or overturning an earlier decision to grant them refugee status.

101. The law clearly regulates other matters related to the granting of refugee status, including issues pertaining to the submission of the application. To obtain refugee status, a person is required to apply to the State Migration Service.

102. Under article 37 of the Migration Act of 31 March 2012, every Turkmen citizen has the right, in accordance with the Constitution and other national legislation, to freedom of movement and to choose a place of residence or stay in Turkmenistan. Restrictions on these rights are allowed on the grounds set out in the Act. Citizens may challenge decisions, acts or omissions of State or administrative bodies, officials or other legal entities or individuals that restrict the above rights by appealing to a higher authority or official or a court.

103. Turkmenistan has thus established a solid framework for the protection of the rights of refugees and migrants that takes account of international practice and law.

11. Please provide statistical data for the period under review, disaggregated by year and country of origin, on:
  - (a) The number of asylum requests registered during the reporting period;
  - (b) The number of requests for asylum, refugee status or other forms of humanitarian protection granted during the reporting period;
  - (c) The number of torture victims identified among asylum seekers, the procedures applied to undertake such identification and the measures taken with regard to those identified as torture victims;
  - (d) The number of persons extradited or deported and the countries to which they were removed.
12. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request by another State for extradition of an individual suspected of having committed an offence of torture. If so, please provide information on the status and outcome of relevant proceedings.
13. With reference to the Committee's previous concluding observations (para. 24), please provide information on:
  - (a) Any measures taken by the State party to provide regular training on the provisions of the Convention and the absolute prohibition of torture, as well as on rules concerning, instructions on and methods of interrogation, to all State agents involved in the holding in custody, interrogation or medical treatment of any individual under any form of detention or imprisonment;
  - (b) Measures taken to provide specific training to all relevant personnel, especially medical personnel and other officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture, on how to identify signs of torture and ill-treatment and on how to use the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);
  - (c) Whether any methodologies have been developed during the period under review to assess the effectiveness and impact on the reduction of cases of torture and ill-treatment of the training and educational programmes on the prevention and absolute prohibition of torture and ill-treatment;
  - (d) Measures to implement a gender-sensitive approach for persons involved in the holding in custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment;
  - (e) Any measures taken to specifically include the prohibition of ill-treatment of and discrimination against persons belonging to ethnic, religious or other minorities in the training of law enforcement officials and other relevant professional groups;
  - (f) Any training provided during the period under review to the judiciary and law enforcement personnel in order to make them fully aware of the provisions of the Convention and its direct applicability in the domestic legal order.

**(a)**

104. Training on the provisions of the Convention and the absolute prohibition of torture, as well as on rules concerning, instructions on and methods of interrogation of persons held in custody, and on the medical treatment of individuals under any form of detention or imprisonment, is provided to students and auditors at the Ministry of Internal Affairs Institute and during in-service and legal training courses for personnel of the relevant units of the internal affairs agencies.

**(b)**

105. In order to provide specific training for staff who deal with detainees or are involved in the investigation and documentation of cases of torture on how to identify signs of torture and ill-treatment, regular courses are organized for personnel working in correctional institutions run by the Ministry's Penal Correction Department and its local units on the international conventions and treaties to which Turkmenistan is a party and also on the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Code of Conduct for Law Enforcement Officials and the Principles of Medical Ethics (for doctors working in correctional institutions), among other texts. During 2015 and the first four months of 2016, 40 courses on these topics were organized at the Penal Correction Department and were attended by 70 staff, while 74 courses were held on site (at correctional institutions), attended by 1,542 people.

106. Furthermore, seminars, courses and training sessions covering the aforementioned international standards for the treatment of prisoners are organized periodically at the Ministry of Internal Affairs Institute in cooperation with international organizations, notably the Organization for Security and Cooperation in Europe (OSCE) Centre in Ashgabat, and with the participation of the Institute's instructors, and study visits are organized to other countries. Since 2012, 24 such initiatives have taken place in Turkmenistan (in the cities of Ashgabat, Turkmenbashi and Tedzhen) and 11 in other countries, involving about 200 personnel from the country's internal affairs agencies in total.

107. As part of the coordinated activities undertaken pursuant to the workplan agreed between the Government of Turkmenistan and the office of the International Organization for Migration (IOM) in Turkmenistan, short courses are being conducted by international experts from IOM for personnel of relevant ministries and departments on the legal status of migrants, refugees and stateless persons and the protection of their health (in 2015, around 10 such courses took place).

**(c)**

108. During the reporting period, pursuant to the plan approved for the implementation of educational programmes on prevention, human rights and the absolute prohibition of torture and other forms of violence, 42 seminars took place, including 16 at the Penal Correction Department of the Ministry of Internal Affairs and 26 at correctional colonies. Officers of the prison system underwent training at these events.

**(d)**

109. The application of the legislation on the enforcement of penalties in Turkmenistan is based on the universally accepted norms and principles of international law relating to the enforcement of criminal penalties and the treatment of convicted persons, including the

strict observance of the guarantees of protection from torture, violence and other cruel or degrading treatment. These norms and principles take account of gender-specific aspects.

110. Article 51 of the Penalties Enforcement Code contains standards on the separation of prisoners in correctional institutions, according to which women should be held separately from men, and juveniles from adults.

111. In correctional institutions in which female inmates are held, supervision of these inmates is entrusted to female officers, who have access to all premises of such facilities.

112. In addition, article 177 of the Penalties Enforcement Code contains provisions on the separate custody of persons held in remand centres, according to which men and women must be held in separate cells, juveniles must be held separately from adults, and foreign nationals and stateless persons must be kept apart from other detainees, along with a range of other criteria intended to protect the rights of detainees.

113. Issues relating to the implementation of a gender-sensitive approach for persons (women) involved in the holding in custody or interrogation of women subjected to any form of arrest or imprisonment are included in the National Plan of Action for Gender Equality in Turkmenistan for 2015-2020, which provides for the conduct of training courses for staff who work directly with female detainees, including medical personnel and guards, with a view to ensuring the equality, dignity and safety of all women held in custody. To ensure that these measures are carried out, the service and combat-readiness training programmes for personnel of special institutions now cover gender-specific aspects of work with female detainees.

(e)

114. At the Ministry of Internal Affairs Institute, which is the higher professional education establishment for personnel of the internal affairs agencies, a 50-hour course entitled "International law" is taught to third-year students of the law faculty and the faculties of the special institutions and the internal affairs troops. The syllabus for this course covers such themes as: (1) the Declaration on the international human rights commitments of neutral Turkmenistan, and the accession of Turkmenistan to international human rights conventions; and (2) the International Convention on the Elimination of All Forms of Racial Discrimination. During the classes, students are taught explicitly that all people are equal and that ill-treatment of and discrimination against persons belonging to ethnic, religious or other minorities are strictly prohibited.

(f)

115. At the Ministry of Internal Affairs Institute, the programmes for the 54-hour course entitled "Law enforcement agencies of Turkmenistan", which is taught to third-year students, and for the "Criminal law" course, which is taught to all students, with the exception of first years, at the law and special institutions faculties (324 hours) and the internal affairs troops faculty (292 hours), include surveys of the judicial system and the law enforcement agencies, one aim of which is make students fully aware of the provisions of the human rights conventions.

**14. With reference to the Committee's previous concluding observations, please provide information on measures taken to ensure that independent bodies monitor and visit places of detention, including:**

(a) **Whether these bodies monitor places of detention, how regularly they visit detained persons and whether they receive complaints from them;**

(b) **Data on visits to places of detention;**

(c) **Whether the State has authorized the International Committee of the Red Cross (ICRC) to carry out visits to all the country's prisons;**

(d) **Whether the State has permitted other independent organizations, including international organizations, to visit places of detention. In addition, please provide updated information with regard to the State's willingness to accept visits by United Nations mechanisms such as the Special Rapporteur on torture and the Working Group on Arbitrary Detention.**

**(a) and (b)**

116. Places of detention are subject to regular monitoring by the Oversight Commission of the Penal Correction Department of the Ministry of Internal Affairs, which periodically visits detainees and takes an interest in their situation and conditions of detention.

117. The Regulations on monitoring commissions were approved by presidential decision on 31 March 2010. The commissions conduct visits to places of deprivation of liberty pursuant to their annual plans. During 2015 and the first six months of 2016, nine visits were carried out.

118. The commissions monitor compliance with the law in correctional institutions, the maintenance of order and of the conditions of detention of convicted prisoners; the provision of appropriate living conditions and sanitation and hygiene facilities; the assignment of prisoners to work that is of benefit to society; the provision of medical care; the observance of the legal provisions governing the early release of convicted prisoners and the replacement of the unserved portion of their sentences with a less harsh form of punishment; the organization and conduct of visits with relatives and other persons; and adherence to the procedures for deliveries, receipt or dispatch of parcels, printed matter and money transfers, and correspondence by prisoners.

119. During the visits conducted in 2015 and the first four months of 2016, the monitoring commissions considered 23 written communications from prisoners on issues relating to their transfer to other colonies or to their medical care. (Transfers occur for many reasons, for example on account of a prisoner's antisocial behaviour or hostility towards other inmates, the proximity of a colony to the place of residence of a prisoner's relatives or owing to climatic conditions.) All 23 applications were granted.

**(c) and (d)**

120. The Ministry of Internal Affairs cooperates closely with ICRC and OSCE on issues relating to access for representatives of international organizations to all places of detention. Each year, the Government of Turkmenistan and the ICRC regional delegation in Central Asia jointly draw up an action plan as part of their cooperation in the area of prisons. ICRC representatives have carried out humanitarian visits to various institutions of the prison system since 2011. Between 2011 and 2014, six such visits took place.

121. On 19 August 2014, the head of the OSCE Centre in Ashgabat, Mr. Ivo Petrov, visited women's colony DZ-K/8, a facility of the Dashoguz Province Police Department.

122. On 28 September 2015, the heads of the diplomatic missions of the United Kingdom (Ms. Lynne Smith), the United States of America (Mr. Allan Mustard), Germany (Mr. Ralf Breth) and France (Mr. Patrick Pascal) in Turkmenistan and the heads of the United Nations Development Programme (UNDP) in Turkmenistan (Ms. Jacinta Barrins) and the Ashgabat office of the Council of Europe (Mr. Denis Daniilidis) made a visit to a correctional institution.

123. During the visit, the guests were given the opportunity to inspect all the premises of the correctional institution.

124. Work is under way on the preparation of a draft memorandum of understanding between the Government of Turkmenistan and ICRC on cooperation and humanitarian activities for persons deprived of their liberty.

**15. With reference to the Committee's previous concluding observations (para. 15), please provide information on:**

**(a) The whereabouts of persons allegedly held in incommunicado detention by the State party, including those imprisoned in connection with the assassination attempt on the former president in 2002, such as Boris Shikhmuradov, Konstantin Shikhmuradov, Batyr Berdyev and Rustam Dzhumayev, and other persons, including journalist Saparmamed Nepeskuliev, who has reportedly been held incommunicado by the State party's authorities since July 2015. Please also indicate if the State party has informed the relatives and lawyers of any of the above-mentioned people about their fate and whereabouts during the period under review, as well as any measures the State party has taken to enable those who are detained to receive visits from family members;**

**(b) Any measures taken to abolish incommunicado detention and imprisonment during the period under review and ensure that all persons held incommunicado are released, or charged and tried under due process;**

**(c) Any measures taken to investigate all outstanding cases of alleged disappearance, provide remedy as appropriate and notify the relatives of victims about the outcomes of such investigations and prosecutions.**

125. Boris Shikhmuradov was convicted by the Supreme Court in 2003 under articles 275 (1) (organization or participation in a criminal association), 287 (3) (illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices), 214 (2) (illegal crossing of the State border), 254 (4) (smuggling), 176 (1) (attempt on the life of the President of Turkmenistan), 174 (2) (conspiracy to seize power), 271 (3) (terrorism), 101 (2) (homicide), 218 (forgery, production or sale of counterfeit documents, stamps or forms, or use of a forged document), 231 (4) (robbery), 129 (3) (unlawful deprivation of liberty), 273 (1) (organization of or participation in an illegal armed formation) and 235 (2) (malicious destruction of or damage to property) and sentenced to life imprisonment.

**16. With reference to the Committee's previous concluding observations (para. 16), please provide the following:**

**(a) Annual data from 2011, disaggregated by place of deprivation of liberty, on the number of deaths in custody attributed to public officials or other prisoners, the number of investigations opened into cases of death in custody, whether the results of the investigations were made public and whether prosecutions were instituted and their outcomes;**

**(b) Information on any measures taken to ensure independent forensic examinations in all cases of death in custody, including by permitting family members of the deceased to commission independent autopsies, as well as measures taken to ensure that the courts in the State party accept the results of independent autopsies as evidence in criminal and civil cases;**

(c) **Information on any further developments in relation to concerns regarding the 2006 death in custody of journalist Ogulsapar Muradova, which was documented in reports of the Secretary-General (see A/61/489, para. 39) and several Special Rapporteurs (see A/HRC/WG.6/3/TKM/2, para. 38), notwithstanding the information provided in paragraph 141 of the State party's report. Please indicate if an autopsy was carried out in this case and its outcome, as well as any resulting action taken by the State party.**

(a)

126. There are cases in which convicted persons die in places of deprivation of liberty. An official investigation is conducted into every death and the cause of death established.

(b)

127. Deaths do occur among inmates in places of deprivation of liberty. A special report is drawn up in respect of every death in custody, and a copy is sent to the procurator responsible for overseeing compliance with the law in the penal institution concerned. The conduct of an autopsy to establish the cause of death is mandatory.

128. On 10 June 2006, Ogulsapar Garlyevna Muradova, a Turkmen citizen born in 1948, who was then a pensioner with no previous convictions, entered into an agreement with Sapardurdy Khadzhiyev to sell ammunition for a firearm to Annakurban Amangylydzhov. On 17 August 2006, she was convicted by a court in Ashgabat under article 287 of the Criminal Code (illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices) and sentenced to 6 years' deprivation of liberty to be served in a general regime correctional colony.

129. In September 2006, she committed suicide by hanging. An inquiry was carried out by the procurator's office and it was decided, on 13 September 2006, not to institute criminal proceedings because of a lack of evidence that a crime had been committed. The body of Ms. Muradova was handed over to her relatives.

17. **With reference to the Committee's previous concluding observations (para. 18), please provide information on:**

(a) **Measures taken to address violence in detention, including physical abuse, any sexual violence and rape or collective punishment by prison officers and/or detainees acting with the acquiescence or at the instigation of prison officials. In this regard, please describe any measures taken to ensure that all reports of torture, ill-treatment or excessive use of force in prisons are investigated promptly, effectively and impartially by an independent mechanism with no institutional or hierarchical connection between the investigators and the alleged perpetrators;**

(b) **Any investigations of allegations of violence against and rape of women detainees by public officials in Ashgabat in 2007 and in the Dashoguz women's prison in 2009 that have been initiated since the submission of the State party's report, as well as information on any outcomes thereof, including the punishment of perpetrators and any redress provided to the victims;**

(c) **Any investigation undertaken into an incident in February 2015 in which five prisoners at Seydi labour camp were allegedly subjected to severe beating by prison guards;**

(d) **Any investigations undertaken into an incident in May 2015 in which Bahram Hemdemov, a Jehovah's Witness, is alleged to have been beaten in pretrial detention, or into the claims of ill-treatment in detention lodged with the Human Rights Committee by Ahmet Hidaybergenov (see CCPR/C/115/D/2222/2012) and Mahmud Hidaybergenov (see CCPR/C/115/D/2221/2012), both Jehovah's Witnesses;**

(e) **Any measures taken to ensure that the use of solitary confinement, which has reportedly resulted in the suicides of several detainees, is undertaken only as an exceptional measure of limited duration, in accordance with the Penalties Enforcement Code;**

(f) **Data on the judicial supervision of conditions of detention by competent organs and information as to whether any judicial entity has ordered investigations into allegations of torture or ill-treatment in detention facilities during the period under review.**

(a)

130. In order to prevent torture and ill-treatment of detainees and other persons in remand centres and places of detention, video monitoring and audio recording devices have been installed.

131. Efforts are also being made to prevent violence in places of deprivation of liberty, pursuant to the Guidelines on the protection and supervision of convicted persons in correctional institutions of the Ministry of Internal Affairs of 21 May 2013 and the Regulations on custody and supervision procedures in remand centres of 19 December 2014.

(c)

132. There is no information concerning the incident described in this subparagraph.

(d)

133. Bahram Hemdemov, a Turkmen citizen born in 1963 in Serdarabat district, Lebap province, unemployed and with no previous convictions, was registered at flat 2, 11 Dostluk Street, Khodzha-Kala settlement, Serdarabat district, Lebap province. On 19 May 2015, he was convicted by Lebap provincial court under article 177 (2) of the Criminal Code (incitement of social, ethnic or religious enmity) and sentenced to 4 years' deprivation of liberty. He is serving his sentence in correctional institution LB-K/12, a facility of the Lebap Province Police Department.

134. His crime was as follows: with a view to the promotion and incitement of religious enmity, Mr. Hemdemov, leader of the Jehovah's Witnesses, an unregistered religious group, engaged in his home with members of this group in propaganda activities, thereby inciting religious discord and enmity towards another religion.

(f)

135. In accordance with current legislation, supervision of conditions of detention in detention facilities is not within the remit of judicial bodies.

18. With reference to the Committee's previous concluding observations (para. 19), please provide information on:

- (a) Annual statistical data since 2011, disaggregated by place of detention, on the capacity and occupancy rates of all places of detention, indicating the number of pretrial detainees at each place of detention;
- (b) Measures taken to reduce prison overcrowding during the period under review in order to bring conditions of detention in places of deprivation of liberty into line with relevant international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including updated information on the construction and repair of detention facilities, as mentioned in the State party's report;
- (c) Any additional reductions in the number of prisoners during the period under review, including through resort to alternatives to incarceration, especially during the pretrial period, with a view to reducing overcrowding, taking into account the provisions of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);
- (d) Any measures taken to improve the situation in the Dashoguz women's prison, including with regard to concerns about overcrowded cells, prisoners working under harsh climatic conditions and the absence of adequate mechanisms for submitting complaints;
- (e) Specific measures taken to ensure all persons in detention have access to and receive the necessary quantity and quality of food; continuous access to drinking water; adequate health care, and material and hygienic conditions; and access to natural and artificial light, ventilation and outdoor activities, as well as footwear and clothing, taking into account the country's climatic conditions;
- (f) Any additional measures taken to improve the nutritional situation and welfare of persons detained in special establishments, remand units or special rehabilitation centres pursuant to the presidential decision of 11 April 2014;
- (g) Any measures taken to remove unnecessary restrictions on family visits;
- (h) Specific measures taken to ensure that minors are detained separately from adults during the entire period of detention or confinement;
- (i) In addition to the information provided in the State party's report on measures taken within the framework of the National Tuberculosis Prevention and Control Programme implemented by the Penal Correction Department, information on any measures to ensure that health-care services available to detained persons free of charge include emergency dental care;
- (j) Information on progress made in installing ventilation systems in the ward housing patients with active tuberculosis at the MR/K-15 facility (a hospital for convicts) and in any other facilities holding persons deprived of their liberty who are suffering from tuberculosis.

136. The occupancy rates of places of deprivation of liberty are based on the upper limit consistent with maintaining the detention regime.

**(b)**

137. Persons serving sentences in correctional institutions are provided with essential amenities. The inmates' accommodation, sleeping quarters, sanitation and hygiene facilities meet all relevant requirements and are appropriate to the climatic conditions in Turkmenistan. To maintain their health, inmates are provided with sufficient living space and adequate access to air and light. The levels of lighting, heating, ventilation and general comfort in detention facilities correspond to those required to protect health. Artificial light is provided sufficient for inmates to read or work without injury to eyesight.

138. Under the law, the minimum living space per prisoner is four square metres in correctional colonies, three square metres in prisons and five square metres in women's colonies, young offenders' institutions and secure hospitals.

139. To ensure that the actual state of affairs in the country's prisons reflects these requirements, constant efforts are made to repair, renovate and refit the relevant facilities and to provide inmates with medical services and employment.

140. Major repairs and modernization work have been carried out at some existing facilities and are under way at others. In the period from January 2012 to June 2016, that is, following the consideration of the previous report of Turkmenistan, a sum of more than US\$ 61,060,000 was set aside in the State budget for construction and major repairs at facilities of the prison system and for the purchase of medical equipment. The funds were used for capital construction, with facilities including the following being built: a new remand centre, BL-D/5, run by the Balkan Province Police Department; a clinic at MR-K/16, a facility of the Akhal Province Police Department located in the town of Tedzhen (the old building had been destroyed); an accommodation block at remand centre AK-D/1, which is managed by the Akhal Province Police Department; and a set of installations at remand centre AK-K/3 in Gekdepe district in Akhal province. The sum set aside has thus been entirely depleted.

**(c)**

141. Various laws have been adopted to render the criminal law of Turkmenistan more humane. Amendments were made to certain articles of the Criminal Code pursuant to the Act of 9 November 2013. For example, a new form of punishment, restriction of liberty, was included in articles 44 and 84, which cover the types of penalty that may be imposed. Restriction of liberty consists in the imposition by the court on a convicted person of certain obligations that curtail his or her liberty; the sentence, which lasts for a period of from 1 to 5 years, is served at the person's place of residence, without his or removal from society, under the supervision of the agency enforcing the penalty.

142. The penalties stipulated in some articles were made significantly less harsh, with punitive work or deprivation of liberty being replaced with fines in articles 108 (intentional infliction of moderate harm to health), 109 (intentional infliction of serious or moderate harm to health committed under a loss of self-control) and 110 (intentional infliction of serious or moderate harm to health by exceeding the limits of reasonable self-defence or while making a citizen's arrest), for example.

143. In addition, in some cases where a criminal act was punishable by deprivation of liberty or punitive work, the length of the sentences was reduced, for example, in articles 142 (procuring), 143 (breach of copyright and related rights, and breach of patent) and 162 (1) (forcing a woman to contract a marriage or impeding the contracting of a marriage).

144. Articles 112 (battery) and 133 (insult) were deleted from the Criminal Code. Now, only administrative liability is envisaged for these offences. Furthermore, criminal liability is incurred for the commission of the offences specified in articles 146 (breach of privacy),

147 (breach of the confidentiality of correspondence, telephone conversations and postal, telegraphic or other communications) and 156 (enticement of a minor to commit an antisocial act), among others, only if a repeat offence is committed within one year of the imposition of an administrative penalty for the same act.

**(d)**

145. Following the adoption of the Penalties Enforcement Code on 25 March 2011, the legal and regulatory instruments of the Ministry of Internal Affairs were revised and aspects relating to the detention regime, to protection and to the procedures and conditions for the custody of detainees, among many others, were brought into line with the Code.

146. Persons sentenced to deprivation of liberty serve their sentences in correctional institutions, with consideration given to the need to help them reform, maintain meaningful contact with their relatives and avoid reoffending.

147. Questions relating to the detention regime, to the conditions for the serving of sentences and to employment and vocational training for convicted persons are governed by chapters 10, 11 and 12 of the Penalties Enforcement Code.

148. In October 2013, a new colony for women that is fully compliant with international standards was brought into operation and all the inmates of the old colony were transferred there. The colony occupies a total surface area of 90.0 hectares. The State earmarked a sum of US\$ 285,585,000 for the colony's construction.

149. In this colony, the sole such facility for women, which is located in Dashoguz province, in addition to the basic facilities required for the colony's functioning, separate quarters have been established for the care of pregnant women and newborns. All the necessary conditions are in place for women during pregnancy, childbirth and the puerperal period, and specialized care is provided. There is a mother-and-child unit in the colony, a specially equipped wing where women can live with their children under the age of 3 years.

**(e)**

150. Convicted prisoners are provided with individual hygiene items, food, bedding, medicines and other essentials, as provided for in the daily schedule, in sufficient amounts and of sufficient quality to maintain the health and strength of each inmate, all funded from the State budget.

151. A more nutritious diet is provided for prisoners who are pregnant or nursing, juveniles, those who are sick and those who have category I or II disabilities, in accordance with the Presidential Decision of 11 April 2014 on standards with regard to the diet and other living conditions of persons held in correctional institutions, remand centres and special rehabilitation centres.

152. Standards regarding the clothing issued to convicted prisoners, furniture, domestic equipment, means of communication and such like were approved in Ministry of Internal Affairs Order No. 184 of 12 July 2014.

153. Medical units have been set up within places of deprivation of liberty to provide medical care to prisoners; those suffering from an active form of tuberculosis, alcoholism or drug or substance addiction are held and treated in secure hospitals. Treatment for prisoners suffering from alcoholism or drug or substance addiction may be provided in a correctional colony's medical unit.

154. Inmates who need specialized medical services are transferred to the central hospital, the MR-K/15 facility of the Mary Police Department.

155. Medical care and preventive care for prisoners are organized in close cooperation with the local health authorities and are delivered in conformity with the legislation of Turkmenistan and the internal regulations of prisons.

156. US\$ 1,794,500 was allocated from the State budget to acquire up-to-date medical equipment.

157. To maintain their health, prisoners are provided with sufficient living space and adequate access to air and light. The levels of lighting, heating, ventilation and general comfort in detention facilities correspond to those required to protect health. Artificial light is provided sufficient for prisoners to read or work without injury to eyesight.

**(f)**

158. Concerning additional measures taken to improve the nutritional situation and welfare of persons detained in special establishments, remand centres or special rehabilitation centres, it should be noted that the Presidential Decision of 11 April 2014 on standards with regard to the diet and other living conditions of persons held in correctional institutions, remand centres and special rehabilitation centres raised the standards regarding nutrition, clothing, personal hygiene and the provision of laundry and dishwashing items and supplies for repairing footwear and clothing.

**(g)**

159. In accordance with the legislation of Turkmenistan, convicted persons have the right to receive visits from the following persons:

- Lawyers and other persons entitled to provide qualified legal assistance
- Representatives of civil society associations monitoring the work of penal institutions
- Representatives of diplomatic missions and consulates of foreign States and of international organizations

**(h)**

160. The requirements with regard to the separate custody of convicted persons are fully observed: men, women, juveniles and judicial and law enforcement officers are all held separately from other inmates.

**(i)**

161. Medical units have been set up within places of deprivation of liberty to provide medical care to prisoners; prisoners suffering from tuberculosis are held and treated in secure hospitals. Those who need specialized medical services are transferred to the central hospital, the MR-K/15 facility of the Mary Police Department.

162. As part of the National Tuberculosis Prevention and Control Programme, the Ministry of Internal Affairs and the Ministry of Health and the Medical Industry adopted Joint Order No. 236/493 of 28 December 2011 on the organization of tuberculosis services in penal institutions and the introduction of a directly observed treatment, short-course, (DOTs) programme.

163. In addition, efforts are being made, pursuant to the Ministries' Joint Order No. 109 of 28 December 2011, to improve the work of tuberculosis services.

164. The administration of a correctional institution is responsible for meeting the established health, hygiene and epidemic control requirements and for ensuring prisoners' health.

165. Medical care and preventive care for prisoners are organized in close cooperation with the local health authorities and are delivered in conformity with the legislation of Turkmenistan, the internal regulations of prisons and Order No. 118 of the Ministry of Internal Affairs of 16 July 2002 containing guidelines on medical care for persons held in remand centres and correctional institutions of the Ministry.

(j)

166. The ventilation system for patients with multidrug-resistant tuberculosis at the central hospital for convicted persons, the MR/K-15 facility, has been installed and is fully operational.

167. Furthermore, the hospital's ward for multidrug-resistant tuberculosis has been provided with sufficient Dezar devices (BE-60, BCS-2017).

**19. With reference to the Committee's previous concluding observations (para. 11), please provide the following information:**

(a) **Updates on any measures taken to establish an effective and independent mechanism to examine complaints and allegations from pretrial detainees and convicted prisoners about torture and ill-treatment by police officers and prison staff and conditions of detention amounting to torture or ill-treatment, and to conduct investigations concerning such allegations, including under article 182 of the Criminal Code, with no institutional or hierarchical connection between the investigators and the alleged perpetrators;**

(b) **Statistics regarding the number of complaints, disaggregated by sex, age and ethnicity of the individual complainant, regarding torture and ill-treatment by police, prison staff and other public officials made to existing complaints mechanisms;**

(c) **Statistics concerning the number of complaints of torture or ill-treatment that resulted in an official investigation, and information on any disciplinary action or criminal prosecution undertaken against State officials for acts amounting to violations of the Convention during the period under review;**

(d) **Any measures taken to ensure that persons who are investigated for having committed acts of torture or ill-treatment are suspended from their duties, prosecuted and, if found guilty, punished in accordance with the gravity of their acts;**

(e) **Measures taken to strengthen the independence of the existing complaints mechanisms, including the National Institute for Democracy and Human Rights and the State Commission to Review Citizens' Complaints concerning Activities of Law Enforcement Agencies;**

(f) **Measures taken to make prisoners clearly aware of their right to lodge complaints of torture and ill-treatment;**

(g) **Any measures taken to facilitate the submission of complaints by victims of torture and ill-treatment to public authorities, including any measures to ensure that complainants do not face reprisals, including ill-treatment or intimidation, as a consequence of their complaint;**

**(h) Any measures taken to facilitate the ability of victims of torture or ill-treatment inflicted in places of detention to obtain medical evidence in support of their allegations;**

**(i) Any cases in which prisoners have submitted complaints of torture or ill-treatment to international organizations, in keeping with article 8 (4) of the Penalties Enforcement Code;**

**(j) Information concerning whether an independent investigation has been carried out concerning claims of torture and ill-treatment in custody made by Bazargeldy and Atdyemal Berdiyev, as mentioned in paragraphs 119 and 120 of the State party's report, and, if so, on any outcome of this investigation.**

**(a)**

168. Under article 8 of the Penalties Enforcement Code, convicted prisoners have the right to submit proposals, statements and complaints to the administration of the penal institution in which they are being held, its supervising body and other authorities, the courts, the procuratorial authorities and civil society associations, and — if all domestic remedies have been exhausted — to international organizations.

169. Prisoners may submit proposals, statements and complaints, including on issues involving violations of their rights or legitimate interests. Proposals, statements and complaints may be submitted orally or in writing. They are examined without delay by the administration of the penal institution concerned.

**(b) and (c)**

170. In 2015 and the first six months of 2016, the Ministry of Internal Affairs received 14 complaints from prisoners' relatives concerning ill-treatment of their convicted family members by prison officers. An investigation was conducted into each complaint, and in no instance was the claim of ill-treatment corroborated.

**(d)**

171. Effective measures are being implemented, and the forms and methods of action taken by the relevant units of special institutions to prevent persons serving sentences of deprivation of liberty from being subjected to torture or ill-treatment are being improved. First and foremost, the officials' obligation to comply with the established rules governing the serving of sentences has been reinforced, and the supervision of operational and educational activities among prisoners has been strengthened. Between 2014 and the first six months of 2016, one prison officer employed by the Akhal Province Police Department faced action for misconduct or failure to properly carry out duties.

172. Since article 1821 (torture) was inserted in the Criminal Code, no cases involving offences of this type have been examined by the courts.

173. Turkmen legislation establishes liability for the use of violence or bullying by law enforcement officers against persons involved in criminal proceedings for the purpose of obtaining testimony, as well as criminal liability for abuse of authority.

174. Article 227 of the Code of Criminal Procedure prohibits the use during pretrial investigations of violence, threats or other unlawful measures and the endangerment of the lives or health of those involved.

(e)

175. In January 2016, the National Plan of Action for Human Rights for 2016-2020 was approved by presidential decision with a view to further improving the activities of State bodies and civil society associations in Turkmenistan aimed at safeguarding human rights and freedoms and giving effect to the rules of international humanitarian law in the legislation of Turkmenistan and in law enforcement practice.

176. The National Plan of Action includes various measures that were developed taking account of United Nations recommendations on political, civil, economic, social and cultural rights accepted by Turkmenistan. It defines specific targets and aims, as well as steps for achieving them and indicators for assessing the results obtained.

177. The Plan provides, under point 17 of the section on civil and political rights, for further enhancements to the handling of communications and representations from members of the public.

178. To ensure the protection of individual rights and freedoms, the State Commission to Review Citizens' Complaints concerning Activities of Law Enforcement Agencies was established on 19 February 2007 by presidential decree.

(f) and (g)

179. Prisoners have the right to be informed of their rights and duties and of the procedures and conditions for the serving of the sentence handed down to them by the courts. On arrival at a correctional institution, they must be informed by the administration, in writing, about the regulations governing the treatment of prisoners, the institution's rules and the procedure for filing complaints.

180. In accordance with article 8 of the Penalties Enforcement Code, prisoners are entitled to be treated by the staff in a manner that is courteous and aimed at instilling in them a sense of personal dignity and responsibility. They must not be subjected to torture or cruel, inhuman or degrading treatment. Regardless of whether they have given their consent, prisoners may not be subjected to medical or other experimentation that could constitute a threat to their lives or health.

181. As stated in article 11 of the Code, prisoners may submit proposals, statements and complaints, including on issues involving violations of their rights or legitimate interests. Proposals, statements and complaints may be submitted orally or in writing. They are examined without delay by the administration of the penal institution concerned.

182. Prisoners have the right to explain themselves; to address proposals, statements and complaints in their native language or a language in which they are proficient; if necessary, to use the services of an interpreter in accordance with the established procedure; and to receive psychological assistance from the resident psychologist of the correctional institution or other qualified individuals.

183. Proposals, statements and complaints from prisoners sentenced to incarceration in a military correctional facility are forwarded to the addressee by the facility's administration. Prisoners serving other types of sentence transmit proposals, statements and complaints independently.

184. Authorities and officials receiving proposals, statements or complaints from prisoners must examine them within the prescribed period and communicate the decision taken to the prisoner concerned.

(j)

185. Between 2004 and 2009, Bazargeldy and Aydyemal Berdyev, having promised to facilitate the purchase of two new apartments in a high-rise building under construction by the Ministry of Construction's Arkachgurlushyk organization, received from Abdurakhman Shamukhamedov, in instalments, monies totalling US\$ 25,000. When the "deal" was discussed, Bazargeldy Berdyev introduced himself as a procurator from the Office of the Procurator General and assured Mr. Shamukhamedov that he could help him purchase the apartments with a loan (mortgage) on receipt of an initial payment of US\$ 6,000 (US\$ 3,000 per apartment) and subsequent instalments amounting to US\$ 25,000. The monies received by Mr. Berdyev from the victim were never returned.

186. The evidence gathered in the course of the investigation pointed to a case of fraud, and, on 4 April 2011, the police investigator instituted criminal proceedings under article 228 (4) of the Criminal Code (obtaining property by deception); on 18 April 2011, the preventive measure of remand in custody was imposed, Mr. Berdyev having failed to appear in response to a summons. Mr. Berdyev had previously been tried for obtaining property by deception and, in the first criminal case, had introduced himself as an employee of the Ministry of National Security.

187. Bazargeldy and Aydyemal Berdyev's claims of torture and ill-treatment in custody were investigated and were not substantiated.

**20. With reference to the Committee's previous concluding observations (paras. 6 and 21), please provide information on:**

**(a) Any amendments to legislation during the period under review incorporating explicit provisions on the right of victims of torture and ill-treatment to redress, including fair and adequate compensation and as full rehabilitation as possible, in accordance with article 14 of the Convention;**

**(b) In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on the number of requests for compensation that have been made to the courts by victims of torture and ill-treatment during the period under review, the number of such claims that have been approved and the amounts of compensation that have been ordered and actually provided in each case. Please also indicate what kind of rehabilitation programmes are provided for victims of torture and ill-treatment by the State party and whether they include medical and psychological assistance, and provide data on the number of individuals who have received such rehabilitation during the period under review;**

**(c) Measures taken by the State party to implement the Human Rights Committee's Views concerning the following cases:**

**(i) *Komarovski v. Turkmenistan* (see CCPR/C/93/D/1450/2006), by instituting criminal proceedings for the prosecution and punishment of the perpetrators of the severe beatings and intimidation of Leonid Komarovski, and the administration of unidentified substances to him against his will, by officials at the National Security Ministry building for five months beginning on 29 November 2002, and by providing Mr. Komarovski with appropriate redress, including compensation;**

**(ii) *Khadzhiev v. Turkmenistan* (see CCPR/C/113/D/2079/2011), by conducting a thorough and effective investigation into Sapardurdy Khadzhiev's**

**pretrial detention in 2006 and subsequent imprisonment until 2013, which he claims was motivated by his work as a human rights defender and during which he was subjected to torture; providing him with detailed information on the results of the investigation; prosecuting, trying and punishing those responsible for the violations committed; and providing adequate compensation. In this regard, the Committee notes the information provided in paragraph 124 of the State party's report that Mr. Khadzhiev was released from detention in February 2013 following a presidential pardon.**

**(b)**

188. As no criminal cases involving torture have come before the Turkmen courts, no civil suits for redress in connection with torture have been considered.

**(ii)**

189. Sapardurdy Khadzhiev, a Turkmen citizen born in 1959 in Ashgabat, had previously been convicted in 2002, under article 292 of the Criminal Code (illegal production, processing, acquisition, storage, transport or forwarding of narcotic drugs or psychotropic substances for the purpose of their sale), and sentenced to 9 years' deprivation of liberty. He was released in 2003, pardoned by presidential decree. He was convicted again, on 25 August 2006, under article 287 of the Code (illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices), and received a 7-year sentence. On 15 February 2013, he was released under a presidential pardon.

**21. With reference to the Committee's previous concluding observations (para. 20), please provide information on:**

**(a) Any additional measures taken by the State party to ensure that evidence obtained by torture may not be invoked as evidence in any proceedings, in line with article 15 of the Convention, article 45 of the Constitution of Turkmenistan and article 25 (1), of the Code of Criminal Procedure;**

**(b) Measures taken to review cases based solely on confessions and, if they are based on evidence obtained through torture or ill-treatment, undertake prompt and impartial investigations and provide remedial measures to victims;**

**(c) The application of the provisions prohibiting the admissibility of evidence obtained under duress; the measures put in place to guarantee, in practice, the exclusion by the judiciary of any evidence obtained under any form of coercion or torture; and whether any officials have been prosecuted and punished for extracting such confessions during the period under review;**

**(d) Measures taken to improve methods of criminal investigation in order to end practices whereby confession is relied on as the primary and central element of proof in criminal prosecutions, in some cases in the absence of other evidence.**

**(d)**

190. In accordance with article 18 of the Code of Criminal Procedure, everyone is presumed innocent until proved guilty under the procedure established by the Code and until an enforceable judgment to that effect has been handed down by a court.

191. Any persisting doubt as to an accused person's guilt is interpreted in his or her favour. Any doubt arising as to the application of criminal law or the law of criminal procedure must likewise be interpreted in favour of the accused.

192. No one is obliged to prove his or her innocence. In the absence of other evidence, confessions alone may not serve as proof of guilt.

193. A guilty verdict may not be based on supposition; it must be corroborated by a sufficient accumulation of credible evidence.

194. Evidence that is collected by unlawful means or is of unknown provenance may not be considered or used in the administration of justice.

**22. With reference to the Committee's previous concluding observations (para. 17), please provide information on:**

**(a) Any measures taken to repeal legislation that authorizes compulsory medical treatment, including medical experimentation, without the free and informed consent of the person being treated;**

**(b) Any measures taken to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment;**

**(c) Measures taken to ensure that a patient's right to be heard in person by a judge ordering a hospitalization is respected and that such decisions can be appealed;**

**(d) Measures taken to allow access to psychiatric facilities and mental hospitals by independent monitors and monitoring mechanisms;**

**(e) Any measures taken to establish an independent complaints mechanism, to publish a brochure with information about its procedures and to ensure that it is distributed to patients and their families;**

**(f) Any amendments to legislation that allows for the deprivation of liberty on the basis of disability and potential "dangerousness" in order to prohibit disability-based forced detention of children and adults with disabilities.**

**(a)**

195. Persons with mental disorders enjoy all the rights and freedoms provided for citizens in the Constitution and laws of Turkmenistan.

196. Under the Psychiatric Care Act of 1993, as amended in 2009, article 5 of which addresses the rights of persons suffering from mental disorders, all persons receiving psychiatric care have the right to:

- Respectful, humane and non-degrading treatment
- Information on their rights, the nature of their mental disorder and the methods used to treat them, to be provided in a form that they can understand given their mental condition
- Psychiatric care provided under the least restrictive conditions, where possible at home

- Admission to a psychiatric hospital only for such a period as is required for examinations and treatment
- All types of medical treatment (including at a health resort) as are medically indicated
- Psychiatric care provided under conditions that meet appropriate health and hygiene requirements
- Prior consent or refusal, at any stage, to being used for the testing of drugs or medical procedures, scientific research or training or for photographs, video recordings or films
- The invitation, at their request, of any specialist involved in their care to be part of the medical panel dealing with issues governed by the Act if the specialist so agrees
- Prior consent to treatment, or the consent of a legal representative in the case of minors under the age of 15 or persons declared to lack legal capacity under the procedure established by law, and refusal to be treated except in cases involving coercive measures of a medical nature or court-ordered involuntary committal to a psychiatric inpatient facility or emergency hospitalization
- Appeal against any wrongful acts by health-care authorities or officials that infringe their rights or legitimate interests
- Assistance from a legal guardian or other person under the procedure established by law

197. The restriction of the rights and freedoms of persons with mental disorders merely on the basis of a psychiatric diagnosis or the fact that a person has been placed under clinical observation or in a psychiatric hospital or neuropsychological institution for social protection or special education is prohibited.

198. As stated in article 13, court-ordered coercive measures of a medical nature may be applied, on the grounds and under the procedure established by law, in respect of persons with psychiatric disorders who have committed acts that pose a danger to the community.

**(b)**

199. Under article 11 (consent to treatment), a person with a mental disorder may be treated without his or her consent or that of a legal representative only if court-ordered coercive measures of a medical nature are being applied or in the event of involuntary committal. In all such cases, except for emergency situations, treatment is carried out pursuant to the decision of a panel of psychiatrists.

200. The use of surgical or other irreversible techniques and the testing of drugs or medical procedures in the treatment of mental disorders are prohibited.

201. Under article 28 (grounds for involuntary committal to a psychiatric inpatient facility), a person with a mental disorder may be committed to a psychiatric hospital without his or her consent or that of a legal representative prior to the issuance of a court order if the person's examination or treatment is possible only in an inpatient setting and if the mental disorder is serious and causes:

- (a) A direct danger to the person concerned or to others;
- (b) A state of helplessness, that is, an inability to meet basic vital needs without assistance;
- (c) The possibility of significant harm to the person's health as a consequence of a worsening psychiatric state if he or she is left without psychiatric care.

202. In accordance with article 32 (application to a court for involuntary committal), the issue of involuntary committal to a psychiatric inpatient facility of a person with a mental disorder must be determined by the court in the area in which the relevant facility is located.

203. The application for involuntary committal is submitted to the court by a representative of the psychiatric facility at which the person is staying.

204. The application, which must indicate the legal grounds for involuntary committal, must be supported by the reasoned opinion of a panel of psychiatrists stating why the person should remain at the facility.

205. On receiving the application, the judge immediately authorizes the person to be kept at the facility until the application is considered by the court.

**(c)**

206. Under article 33 (consideration of the application for involuntary committal), the judge considers the application for involuntary committal to a psychiatric inpatient facility within five days of receiving it, at the court or at the facility itself.

207. The person concerned must be permitted to participate personally in the court proceedings regarding his or her committal. If the report submitted by the representative of the facility specifies that the person's mental state precludes his or her personal attendance in court, the judge must consider the application at the facility.

208. A procurator, a representative of the psychiatric facility requesting committal and a representative of the person under discussion must be present when the application is considered.

209. Under article 34 (judge's decision on the application for involuntary committal), after considering the merits of the application, the judge must either grant or deny it.

210. The judge's decision to grant the application serves as the basis for committing the person and continuing to hold him or her in the psychiatric inpatient facility.

211. The decision may be contested within 10 days of its adoption by the person placed in the facility, his or her representative, or the director of the facility, as well as by an organization that is entitled, by law or under its charter (regulations), to protect citizens' rights, or by a procurator, under the procedure stipulated in the Code of Civil Procedure.

**(d)**

212. In accordance with their charters (regulations), associations of psychiatrists and other civil society associations may verify that the rights and legitimate interests of persons receiving psychiatric care are being respected, at the request of the latter or with their consent. The right to visit psychiatric hospitals and neuropsychological institutions must be reflected in the charters (regulations) of such associations, and the exercise of this right must be coordinated with the authorities responsible for the psychiatric hospital or neuropsychological institution to be visited.

213. Representatives of civil society associations are required to coordinate the conditions for a visit with the administration of the psychiatric hospital or neuropsychological institution concerned; familiarize themselves with the rules in force in the facility and abide by them; and sign an undertaking not to breach medical confidentiality. They have the right to receive medical information to the extent provided for in the Act, with the consent of the persons receiving psychiatric care or their legal representatives.

(e)

214. The operations of establishments, organizations and individuals providing psychiatric care are supervised by the local authorities.

215. The State health-care, social security and education authorities and government ministries or departments are responsible for supervising the work of the psychiatric hospitals or neuropsychological institutions under their authority, while the work of doctors in private practice is supervised by the health-care authorities.

216. The Procurator General and the procurators reporting to him or her monitor compliance with the Psychiatric Care Act. They are empowered to take measures to restore any violated rights and protect the legitimate interests of persons with mental disorders and to bring charges against offenders.

(f)

217. The Mejlis is now working on a revised draft of the Psychiatric Care Act with the assistance of experts from the World Health Organization (WHO).

23. **With reference to the Committee's previous concluding observations (para. 13), in which it expressed concern about numerous and consistent allegations of intimidation, reprisals and threats against human rights defenders, journalists and their relatives, please provide information on:**

(a) **Measures taken to ensure that human rights defenders and journalists are protected from intimidation or violence as a result of their activities, both in Turkmenistan and abroad;**

(b) **Measures taken to ensure prompt, impartial and thorough investigation of cases of intimidation or violence against human rights defenders and journalists, as well as measures taken to prosecute and punish perpetrators;**

(c) **The outcome of any investigations into other alleged cases of arbitrary detention, torture and ill-treatment, or threats against human rights defenders and journalists, during the period under review;**

(d) **Measures taken by the State party to order an independent investigation into the determinations of the Working Group on Arbitrary Detention, such as its August 2013 decision (A/HRC/WGAD/2013/22) that activist Gulgeldy Annaniazov had been subjected to arbitrary detention by the State party since 2008, a case addressed in paragraph 36 of the State party's report. Please provide information about the status and outcome of any such investigation.**

218. The human rights of journalists and human rights defenders in Turkmenistan are guaranteed and protected in both the Constitution and the legislation in force in the country.

219. Under article 28 of the Constitution, citizens have the right to freedom of opinion and expression and the right to obtain information, except for State or other legally protected secrets.

220. On 3 May 2014, the Mejlis adopted the Information Protection Act, which regulates matters related to the exercise of the right to seek, gather, receive, send, produce, conserve, present, disseminate and use information, and also the application of information technologies and the protection of information. The underlying principles are the freedom to seek, receive, transmit, produce, collect, conserve and disseminate information by any legal means; the establishment of limitations on access to information solely on the basis of

the law; the reliability of information and its timely delivery; and the prohibition on the establishment by the country's laws and regulations of any preferential treatment for certain information technologies to the detriment of others. Article 7 of the Act stipulates that individuals have the right to receive information directly related to their rights and freedoms from State bodies, local agencies of the State, local government bodies and their officials under the procedure established by law.

221. In accordance with article 4 (1) of the Media Act of 22 December 2012, in Turkmenistan, the mass media are free. The State guarantees freedom of opinion in the media. No one may prohibit or prevent the media from disseminating information that is in the public interest, except as provided by law:

- Turkmen citizens have the right to use any form of mass media to express their views or faith and to seek, receive and distribute information
- Turkmen citizens have the right to receive, through the media, information on the activities of State bodies, civil society associations and officials
- The freedom to gather, receive and disseminate information may not be restricted, except as provided by law where necessary to protect the constitutional order, health, honour and dignity, a citizen's private life or public order

222. The Act on the Print Media and Other Mass Media of 10 January 1991 guarantees freedom of expression and the rights of journalists and prohibits interference in the activities of the media.

223. In accordance with article 4 (2) of the Act, the State policy outlawing censorship and interference in the activities of the media is based on the prohibition of the following:

- Censorship of the media, that is, the unfounded distortion by the management of a media outlet of journalistic content, demands that the editorial staff of a media outlet seek prior approval of reports and content, or the banning by State bodies, organizations or civil society associations or officials of the dissemination of reports and content, except in the cases envisaged in Turkmen legislation
- The establishment of bodies or officials to pre-screen information destined for dissemination by the media
- The exertion of influence on entities involved in preparing and distributing public information and on journalists to force them to present in the media information that is incorrect or biased
- Interference in the activities of the media, except in the cases envisaged in Turkmen legislation
- Restriction of the circulation by citizens of the equipment and materials necessary for the dissemination of public information
- Hindrance by officials of State bodies or civil society associations of the lawful professional activities of journalists and forcing of journalists to disseminate, or refuse to disseminate, information
- Infringement of the freedom of the media, that is, any kind of hindrance of their lawful activities

224. Under article 30 of the Act, journalism is a free profession and not subject to licensing.

225. Journalists have the right:

- (1) To seek, request, obtain and disseminate information;

- (2) To visit State bodies and organizations, enterprises and institutions, and offices or press services of civil society organizations;
- (3) To be received by officials in connection with requests for information;
- (4) To have access to documents and materials, with the exception of portions containing State, trade or other legally protected secrets;
- (5) To copy, publish, disclose or otherwise reproduce documents and materials, provided that the requirements set out in article 44 (1) of the Act are met;
- (6) To make recordings, including through the use of audio and video technology, and to take film footage and photographs, except in the cases provided in Turkmen legislation;
- (7) To visit the locations of emergencies and to be present at mass public gatherings;
- (8) To verify the reliability of information provided to them;
- (9) To set out their personal opinions and assessments under their byline in reports and content intended for circulation;
- (10) To refuse to prepare under their own byline reports or content that contradict their beliefs;
- (11) To have their byline removed from reports or content that, in their opinion, have been distorted during the editing process, or to prohibit or fix conditions for the use of such reports or content, in accordance with article 41 (1) of the Act;
- (12) To refuse assignments from the editor-in-chief or editorial staff if carrying out the assignments would entail breaking Turkmen law;
- (13) To disseminate reports or content prepared by them under their own byline, under pseudonyms or without a byline;
- (14) To organize themselves in trade unions and to take part in the activities of such unions.

226. Journalists also enjoy other rights provided for them in Turkmen legislation.

227. Article 3 (4) of the Publishing Act of 8 November 2014 provides for opportunities for self-expression by authors, irrespective of their ethnicity, race, sex, origin, property and professional status, place of residence, language, views on religion, political convictions, or party affiliation or lack thereof.

228. The Act on Legal Regulation of Internet Development and Internet Services, adopted on 20 December 2014, provides that citizens' rights and freedoms regarding the use of the Internet and access to information on the Internet must be observed.

**(d)**

229. In 1996, Gulgeldy Annaniyov, a Turkmen citizen born in 1960 in Ashgabat, was convicted under articles 15-106 (aggravated homicide), 257 (illegal handling of narcotics without intent to sell) and 249 (illegal carrying, storage, acquisition, production or sale of firearms, ammunition or explosives) of the 1961 Criminal Code and sentenced to 15 years' deprivation of liberty, but he was released in 1999, pardoned by presidential decree. On 7 October 2008, he was convicted of a second offence, under articles 214 (illegal crossing of the State border) and 217 (seizure or destruction of documents, stamps, seals or forms) of the Code, and sentenced to 11 years' deprivation of liberty, which he is serving in the colony of the Akhal Province Police Department.

24. With reference to the Committee's previous concluding observations (para. 22), please provide information on any additional measures taken by the State party to prohibit and eliminate ill-treatment in the armed forces, and to ensure prompt, impartial and thorough investigation of all allegations of such acts and rehabilitation to victims, including medical and psychological assistance.

230. Service in the armed forces must take place in strict compliance with the military statutes, which prohibit any possible ill-treatment.

#### **Other issues**

- 25. Please provide updated information on the legal remedies and safeguards available to persons subjected to anti-terrorism measures in law and in practice, whether there have been any complaints of violations of the Convention in the State party's application of anti-terrorism measures, and the outcome of those complaints.**

231. In recent years, the national legal system has been supplemented with a whole range of laws on combating terrorism and extremism.

232. These include, first and foremost, the Counter-Terrorism Act of 15 August 2003, the Anti-Extremism Act of 28 February 2015 and the Money-Laundering and Financing of Terrorism Act of 18 August 2015.

233. More than 30 laws regulating a variety of matters also contain counter-terrorism measures, notably the Freedom of Religion and Religious Organizations Act of 26 March 2016, which prohibits the activities of religious organizations that promote terrorism.

234. The Licensing of Designated Types of Activity Act of 25 June 2008 regulates licensing as a means of combating money-laundering and financing of terrorism. Under the Customs Service Act of 12 March 2010, which regulates the Service's work, the Service is given the task, within the limits of its competence and alongside other law enforcement agencies, of implementing counter-terrorism measures.

- 26. With reference to the Committee's previous concluding observations (para. 26), please indicate whether the State party is considering making the declarations under articles 21 and 22 of the Convention.**

- 27. With reference to the Committee's previous concluding observations (para. 27), please indicate whether the State party is considering ratification of the Optional Protocol to the Convention, the International Convention for the Protection of All Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court.**

235. Work is continuing with a view to the accession of Turkmenistan to the Optional Protocol to the Convention, adopted by General Assembly resolution 57/199 of 18 December 2002, the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by a General Assembly resolution of 20 December 2006, and Rome Statute of the International Criminal Court, adopted on 17 June 1998.

236. In particular, national legislation is being checked for consistency with the provisions of the aforementioned international instruments. In addition, the Rome Statute is being analysed and studied, along with the arrangements for acceding to it. To that end, informational seminars are being held for members of the parliament and representatives of relevant State entities, in cooperation with international organizations.

237. In recent years, a number of amendments have been made to the Criminal Code (on 4 August 2012 and 21 November 2015), the Code of Criminal Procedure (on 4 August 2011, 31 March 2012 and 22 December 2012) and the Penalties Enforcement Code (on 29 August 2013 and 1 March 2014).

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