



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

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Summary record of the 1480th meeting

Held at the Palais Wilson, Geneva, on Monday, 21 November 2016, at 10 a.m.

Chair: Mr. Heller Rouassant (Vice-Chair)

Contents

Consideration of reports submitted by States parties under article 19 of the Convention
(continued)

Second periodic report of Turkmenistan

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In the absence of Mr. Modvig, Mr. Heller Rouassant (Vice-Chair) took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (continued)

Second periodic report of Turkmenistan (CAT/C/TKM/2; CAT/C/TKM/Q/2 and Add.1)

1. *At the invitation of the Chair, the delegation of Turkmenistan took places at the Committee table.*
2. **Mr. Taganov** (Turkmenistan), introducing his country's second periodic report (CAT/C/TKM/2), said that 25 years had passed since Turkmenistan had begun its journey to become a democratic and secular State governed by the rule of law, in which individual rights and freedoms were valued above all else. Under the leadership of the President of Turkmenistan, Mr. Gurbanguly Berdimuhamedov, major changes were taking place in all areas of political, economic, social and cultural life, including a reform of the national legal system. Over the reporting period, Turkmenistan had made considerable progress in implementing the Convention. The legal framework had been improved significantly and work was under way to bring domestic legislation into line with international norms.
3. On 14 September 2016, after a nationwide process of consultation, the Mejlis, (parliament), had adopted an amended Constitution. Its fundamental provisions were immutable: they reaffirmed State sovereignty, permanent neutrality and the democratic and secular nature of the State, governed by the rule of law, and defined the powers of State bodies.
4. Article 25 of the amended Constitution stipulated that human and civil rights and freedoms were recognized in accordance with the norms of international law. The amended Constitution retained provisions guaranteeing the inviolability and inalienability of human rights and freedoms. It stipulated that human rights and freedoms formed the basis of the content and implementation of laws and the functioning of legislative and executive authority and local self-government, and were guaranteed by law.
5. The amended Constitution included important human rights provisions. It stipulated that a person was presumed innocent until proven guilty of an offence in the manner prescribed by the law. No one was required to prove their own innocence. A criminal penalty could be imposed only on a person who had been proven guilty; he or she would be given an enforceable sentence by a court. A person could not be tried twice for the same offence.
6. Article 33 of the amended Constitution stipulated that no one could be sentenced or punished except in strict accordance with the law. No one could be subjected to torture or cruel, inhuman or degrading treatment or punishment, or to medical treatment or scientific experimentation against their will. The Constitution included a new article guaranteeing the right to receive legal assistance, in some cases free of charge. In addition, article 65 stipulated that the enjoyment of individual human and civil rights could be restricted only if a state of emergency or martial law had been declared.
7. Consideration had been given to the possibility of setting up a national human rights institution in line with the Paris Principles, and the bill relating to the Commissioner for Human Rights (Ombudsman) would be adopted in the near future.
8. On 4 August 2012, a law amending the Criminal Code had been adopted, providing for the establishment of a separate offence of torture. The new article was in line with article 1 of the Convention. The new Penal Enforcement Code, which had entered into

force on 1 July 2011, was in line with international norms on the enforcement of criminal sentences and the humane treatment of convicted offenders. On 12 January 2016, the Mejlis had adopted the Act on State Protection of Victims, Witnesses and Other Participants in Criminal Proceedings, which had established a system of State protection for those persons.

9. In recent years, a number of counter-terrorism laws had been adopted, including 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. Various other laws providing for counter-terrorism measures had been adopted, including the Freedom of Religion and Religious Organizations Act of 26 March 2016, the Licensing of Designated Types of Activity Act of 25 June 2008 and the Customs Service Act of 12 March 2010.

10. Several national plans of action had been adopted, including the National Plan of Action for Human Rights for 2016-2020, the National Plan of Action for Gender Equality for 2015-2020 and the National Plan of Action to Combat Trafficking in Persons for 2016-2018. In accordance with those plans of action, work was under way to strengthen cooperation with United Nations entities active in the field of human rights. To ensure that the measures set out in the National Plan of Action for Human Rights were fully implemented, the judicial authorities were organizing many training seminars and conferences with lawyers and representatives of the courts and law enforcement agencies.

11. Future employees of the Ministry of Internal Affairs received training in labour law, family law, administrative law and criminal law, which were taught with a focus on specific issues, including gender equality and violence against women and children. The Ministry's Juvenile Affairs Office organized various initiatives to prevent child marriage. For example, girls and their parents were given legal advice and received counselling.

12. Efforts had been made to eradicate hazing in the armed forces, including the introduction of a system of regular medical examinations and a number of awareness-raising measures. Soldiers were offered assistance in adapting to and overcoming the challenges of military service and were taught the importance of respecting others. The Government worked with the relevant entities of the United Nations, the European Union, the Organization for Security and Co-operation in Europe and civil society to examine any isolated cases of hazing.

13. The Government had examined all the recommendations made by the Committee in connection with the initial report of Turkmenistan, and their implementation was under way. With the adoption of the amended Constitution and the National Plan of Action for Human Rights, a new stage of legal reform had been reached. The process would entail further legislative development and institutional restructuring, which, in turn, would serve to guarantee human rights and freedoms and the implementation of all the international human rights instruments to which Turkmenistan was a party.

14. **Ms. Gaer** (Country Rapporteur) said that, although considerable progress had been achieved on the legislative front, the Committee still had some concerns. She wished to know whether the Government planned to take legislative action to ensure that perpetrators of torture and enforced disappearance were not eligible for amnesty and that the absolute prohibition of torture could not be suspended, even in a state of emergency or martial law.

15. Despite the progress made in terms of legislation, she had not found any evidence of a perpetrator of torture having been punished. According to paragraphs 7 to 9 of the State party's replies to the list of issues (CAT/C/TKM/Q/2/Add.1), no complaints or allegations of torture had been received from detainees, no cases of torture had been reported, and no criminal offences under article 1,821 (Torture) of the Criminal Code had been recorded. According to paragraphs 170 and 171, none of the 14 complaints of ill-treatment received from the relatives of convicted prisoners in 2015 and the first six months of 2016 had been

corroborated after investigation, and only one prison officer had faced action for misconduct between 2014 and June 2016. Had that case of misconduct involved torture or ill-treatment?

16. There were a number of individual cases on which more information would be appreciated, in particular with regard to any investigations that had been conducted. At a pretrial detention facility in Anau in September 2016, 19 persons suspected of links to the Hizmet movement had reportedly been detained without charge and tortured. Were there plans to investigate those reports? She wished to know whether the death of Altymurad Annamuradov, the brother of journalist Chary Annamuradov, who had allegedly been kidnapped, tortured and killed between 31 August and 4 September 2016, had been independently investigated.

17. Further information on any investigations conducted in connection with allegations concerning the arbitrary imprisonment and torture of Annakurban Amanklychev, a member of the Turkmenistan Helsinki Foundation, and Sapardurdy Khajiev, a relative of the Foundation's director, and the death in custody of Ogulsapar Muradova in September 2006 would be appreciated. Although the State party had indicated in paragraph 129 of its replies to the list of issues that Ms. Muradova had committed suicide by hanging, the Open Society Justice Initiative had submitted a complaint to the Human Rights Committee on behalf of her brother in which it had alleged that she had died from a head injury. Had an autopsy of Ms. Muradova's body been conducted? If it had, when had it been conducted and had the final report been made available to her family? Had any action been taken in response to the Views adopted by the Human Rights Committee in the case of Mr. Amanklychev (CCPR/C/116/D/2078/2011)?

18. She asked whether the delegation could provide assurances that reprisals would not be taken against any person who had either been mentioned in the course of the reporting procedure or had shared information with the Committee. The Committee had previously raised the case of Farid Tuhbatullin, who had been threatened with reprisals.

19. She wished to know whether measures had been taken to ensure that allegations concerning the arbitrary detention and torture of Jehovah's Witnesses, including Bahram Hemdemov and Mansur Masharipov, had been independently investigated. The delegation should also indicate whether there had been an investigation into reports that five Muslim prisoners had been severely beaten at Seydi labour camp in February 2015.

20. The Committee was concerned that the State party had not provided satisfactory information on a number of cases of incommunicado detention. The Committee wished to know the whereabouts of the persons allegedly held incommunicado in connection with the assassination attempt on the former President in 2002, including Boris Shikhmuradov, Konstantin Shikhmuradov, Batyr Berdyev and Rustam Dzhumayev. Could the delegation confirm that those persons were still alive? With regard to the case of Gulgeldy Annaniazov, she would be grateful if the delegation could inform the Committee of any action taken to conduct an independent investigation in the light of the opinion of the Working Group on Arbitrary Detention (A/HRC/WGAD/2013/22).

21. The Committee had received reports alleging that more than 100 people were being held in incommunicado detention. She wished to know whether the Government planned to abolish incommunicado detention and either release or charge the people held in such conditions, including Tirkish Tyrmeyev, Tagandurdy Khallyev and Serder Rakhimov. It would be useful to have a full account of the whereabouts and condition of Boris and Konstantin Shikhmuradov, Batyr Berdyev, Rustam Dzhumayev, Gulgeldy Annaniazov, Bahram Saparov and Saparmamed Nepeskuliev. Did the Government intend to release those detainees whose detention had been deemed arbitrary by the Working Group on Arbitrary Detention?

22. Referring to reports that the entitlement of detainees to immediate access to a lawyer was not always honoured, she wished to learn how compliance with fundamental safeguards was monitored by the authorities. Given that the Criminal Code provided for detainees to be held for up to six months without being presented before a judge, the delegation should indicate whether there were any plans to adopt a habeas corpus procedure.

23. The Committee would welcome details of how often prisoners' requests for medical examinations had been authorized. It would also appreciate information on whether the reference index containing details of detainees could be accessed by lawyers and family members. The delegation should indicate whether all police stations, remand centres and prisons were equipped with video recording systems. It should further explain whether the Government had implemented any measures to require the presence of both a lawyer and a parent or guardian during the questioning of a minor.

24. Welcoming the bill to establish an Ombudsman's Office in the State party, she wished to know whether the new Constitution provided for the President to appoint and dismiss the Commissioner for Human Rights, with the approval of the Mejlis. Would the Commissioner have competence to receive complaints of human rights violations? It would be useful to learn about the functions, powers and funding the Commissioner would have. She asked whether the Government intended to publish the bill before its adoption in order to allow experts to review its provisions.

25. The Committee would welcome additional information on the expected time frame for the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and on whether the Ombudsman's Office would serve as the national preventive mechanism under the Optional Protocol.

26. The delegation should confirm how many visits to places of detention had been carried out by independent bodies. Had the International Committee of the Red Cross (ICRC) made any such visits since 2014? If none had taken place, the delegation should explain why. It would be useful to receive an update on the timetable for the completion of the memorandum of understanding with ICRC that the Government was in the process of preparing. Noting that at the end of 2015 there had been 13 pending requests for visits to the State party by special mechanisms of the United Nations, she also wished to know whether the Government intended to extend an invitation to the Special Rapporteur on Torture and to the Working Group on Arbitrary Detention.

27. While the State party had taken action at the legislative level to establish procedures for the appointment and dismissal of judges, in practice the President still had sole power over such decisions. The delegation should indicate the steps the Government intended to take to resolve the discrepancy.

28. The Committee wished to receive updated information on the allegations of violence and rape committed against women detainees by public officials in Ashgabat in 2007 and in Dashoguz in 2009. Had there been any prosecutions or convictions as a result of those allegations? The delegation should provide data on the number of prosecutions in the State party during the reporting period in cases of violence against women and domestic violence, including the punishments handed down and compensation awarded to the victims. It would also be interesting to learn how many domestic violence shelters existed and what their capacity was. Data should be provided on the number of women who had requested protection orders and on how many of those requests had been granted. Data should further be provided on the number of prosecutions of perpetrators of human trafficking and the punishments handed down. The delegation should explain how the Government ensured that victims of trafficking received redress and how it protected and assisted such victims.

29. The Committee continued to receive reports of forced labour during the annual cotton harvest and of hazing in military academies in the State party. The delegation should

explain what steps the Government was taking to prevent those practices. The Committee wished to receive clarification of reports that no acquittals were handed down in criminal cases in the State party.

30. She would like to receive statistical data relating to refugees and asylum seekers. While she welcomed the State party's accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, she wished to receive clarification on the accuracy of reports that the system for granting refugee status was inactive and that no new refugees had been registered in the State party since 2005. The delegation should provide data covering the period from 2012 to 2016 on the number of asylum applications received, the number of foreigners who had been expelled, returned to their country of origin or refused entry to the State party, the number of foreigners held in detention facilities and the number of pending applications for asylum. The Committee would also appreciate information on what was being done to establish fair and efficient asylum procedures which were accessible at all border points, including airports, and on whether asylum seekers, including detainees, were guaranteed access to free legal representation.

31. **Mr. Zhang** (Country Rapporteur) said that he wished to congratulate the State party on the promulgation of its new Constitution.

32. He would welcome more information about training on the provisions of the Convention and the absolute prohibition of torture provided for State agents involved in the custody, interrogation or treatment of detainees. The delegation should indicate how regularly such training took place, which units received the training, how many agents were trained at each session, who conducted the training and what teaching materials were used. Could the delegation also provide further information on how agents had received training on the Istanbul Protocol in the 11 training courses which had taken place outside the State party? The Committee would also appreciate information on how the effectiveness and impact of such training had been assessed during the reporting period.

33. Congratulating the State party on the progress it had made in granting independent bodies access to detention facilities, he asked the delegation to provide updated information on the joint action plan drawn up by the Government and ICRC as part of their cooperation in the area of prisons.

34. He would appreciate information on any plans and measures that had been implemented, subsequent to the recommendations made by the Committee in 2011, to: ensure the establishment of a national system for the independent, effective and regular monitoring of all places of detention without prior notice; grant ICRC unhindered access to detention facilities, thereby enabling it to carry out monitoring in accordance with its standard procedures; and facilitate visits to Turkmenistan by all interested United Nations special procedures, including the Special Rapporteur on torture and the Working Group on Arbitrary Detention.

35. He asked whether the State party could provide the Committee with updated information on the autopsies carried out, official investigations conducted and reports produced in the event of the death of an individual in a detention facility. Despite the request submitted by the Committee in its list of issues for information on the independent investigation of cases of torture and ill-treatment in places of custody, the State party had not informed the Committee whether such investigations had been carried out. The Committee would also welcome a response to its question posed in the list of issues concerning investigations into the alleged violence against and rape of women detainees by public officials. In addition, the Committee sought further clarification of the role of the judicial system in supervising detention conditions, and requested data, disaggregated by place of detention, on capacity, occupancy rates and number of pretrial detainees for all places of detention.

36. Although efforts had been made to bring conditions in detention facilities into line with international standards, the Committee remained concerned about alleged overcrowding in pretrial detention facilities. According to reports, the majority of detainees in such facilities had already been sentenced but had not been transferred to penal colonies. Furthermore, it had been reported that, as a result of overcrowding, detainees suffering from tuberculosis and skin diseases were held with healthy detainees, thereby contributing to the spread of those diseases. The Committee would therefore appreciate accurate and updated information regarding conditions in pretrial detention facilities and the separation of healthy detainees from those suffering from infectious diseases.

37. He welcomed the amendments to the Criminal Code which aimed to encourage alternative punishments to deprivation of liberty. He congratulated the State party on the construction of a new and improved women's prison in Dashoguz Province and asked whether the State party intended to improve conditions in other facilities elsewhere. He also asked for clarification as to whether the unnecessary restrictions on family visits in places of detention had been removed.

38. With regard to articles 12 and 13 of the Convention, he noted that, according to the report of the State party, detainees' complaints relating to torture and ill-treatment by prison staff were examined by the senior officials of the prison concerned. However, he wondered whether such officials met the legal requirement of having no institutional or hierarchical connection with the alleged perpetrators and, if not, whether the State party intended to improve its investigation mechanism for such complaints. The Committee would welcome more detailed information on the number of complaints submitted by detainees regarding torture or ill-treatment by police or prison officers, and on the specific legal action taken against the one prison officer found guilty of misconduct between 2014 and 2016. In addition, according to NGOs, no information was available as to whether the State Commission to Review Citizens' Complaints concerning Activities of Law Enforcement Agencies had investigated and brought to justice any members of the security forces for misconduct. A comment from the delegation in that regard would be useful.

39. Turning to article 14 of the Convention, he invited the delegation to respond to the question asked by the Committee in its list of issues regarding any legislative amendments that had been introduced by the State party to ensure the right of victims of torture and ill-treatment to redress. Despite repeated requests from the Committee for detailed information on the implementation of article 14, no such information had been provided. He encouraged the delegation to engage in constructive dialogue with the Committee in that regard and also asked for more information on the case of *Komarovski v. Turkmenistan*.

40. Concerning article 15 of the Convention, he noted that the State party had not replied to the Committee's request for information on any additional measures taken to ensure that confessions obtained through torture could not be invoked as evidence during court proceedings. Furthermore, according to NGOs, self-incriminatory statements resulting from alleged ill-treatment were common in Turkmenistan. Such statements could not be retracted, were admitted as evidence in court and thorough investigations into the allegations of ill-treatment were not conducted. In addition, given that Turkmenistan had a conviction rate of 100 per cent, self-incriminatory statements inevitably resulted in the conviction of the accused. He invited the delegation to provide information on any cases in which evidence obtained through ill-treatment had been rendered inadmissible by the courts.

41. With regard to article 16 of the Convention, the Committee was concerned at reports that the Government of Turkmenistan allegedly subjected journalists to surveillance and harassment. For instance, in 2015, freelance journalist Saparmamed Nepeskuliev had been arrested and convicted for possession of narcotics and sentenced to 3 years' imprisonment. According to Human Rights Watch, however, the accusation had been politically motivated. He asked the delegation to comment on that case and to provide information on the

implementation of national laws that ensured the protection of human rights and the right to freedom of information.

42. **Mr. Bruni**, referring to articles 2 and 11 of the Convention, said he was concerned that, under Turkmen law, the minimum living space per inmate in prison was established at 3 square metres, which was below the international standard of 4 square metres. Moreover, according to media and NGO reports, Turkmenistan had a high rate of incarceration (543 prisoners per 100,000 citizens) and prison conditions were allegedly very poor. He invited the delegation to comment on reports of sexual violence, overcrowding, the high mortality rate, lack of access to medication, infectious diseases and other problems in detention facilities.

43. He wished to hear a response from the delegation to reports that prison overcrowding contributed greatly to the spread of infectious diseases and to the high prison death rate, that facilities holding prisoners who were suffering from tuberculosis were also overcrowded, that inmates were transferred to the MR-K/15 facility only if they were on the brink of death or had paid a bribe, and that tuberculosis in prisons was underreported.

44. The delegation should state whether it was true that, between March 2015 and March 2016, 93 inmates at LBK/11 prison had died as a result of cardiovascular disease and, if so, should explain why the number was so high. It should also comment on reports concerning Ovadan-Depe prison, according to which: living conditions were horrific; inmates had been subjected to food deprivation, confined to poorly-lit cells for all but seven minutes a week and given limited opportunities for physical exercise; the water in cells was dirty and the toilets afforded no privacy; the heating system broke down frequently in winter, when external temperatures could drop to minus 20 degrees Celsius; and torture and other ill-treatment were widespread. The delegation should describe the measures envisaged to improve detention conditions in general.

45. **Ms. Belmir** said that it would be helpful to know what steps were being taken to ensure that fundamental legal safeguards were guaranteed in practice.

46. She noted with concern that, according to alternative sources, individuals and families had been forcibly evicted during preparations for the 2017 Asian Indoor and Martial Arts Games, which were scheduled to be held in Ashgabat.

47. The Committee had received allegations of ill-treatment of detainees, including corporal punishment and sexual violence so severe that it had driven some to commit suicide. She therefore wished to know what efforts were being made to improve the treatment of detainees, particularly women.

48. It was reported that some people had been subjected to involuntary treatment in psychiatric establishments to punish them for their convictions and beliefs. It was also reported that, although some positive steps had been taken, more needed to be done to improve the treatment of minors in detention.

49. **Ms. Racu** invited the delegation to respond to reports that, at Dashoguz women's prison, inmates were subjected to: disciplinary sanctions; frequent spells of solitary confinement, even for minor misconduct, in conditions so harsh as to cause illness; and humiliating and unjustified searches that often resulted in the confiscation of personal belongings and food. The delegation should state whether it was true that temperature control systems were used at the prison to expose inmates to both heat and cold. It should also provide statistics on the mortality rate, and comment on allegations that the oncological morbidity rate was very high and that access to treatment was inadequate.

50. **Mr. Hani**, thanking the State party for the timely submission of its report, said that he would appreciate updates on whether the Government intended to ratify the Optional Protocol to the Convention against Torture and to make the declarations under articles 21

and 22 of the Convention, particularly given that, in paragraph 168 of the replies to the list of issues, it was stated that, under article 8 of the Penalties Enforcement Code, convicted prisoners had the right to submit complaints to international organizations once all domestic remedies had been exhausted.

51. Noting that prison administrators, to whom proposals, statements and complaints could be submitted, were not independent, he asked what measures were planned in order to establish an effective and independent mechanism to examine complaints and allegations from pretrial detainees and convicted prisoners.

52. He asked how the information provided in paragraph 170 of the replies to the list of issues, according to which the Ministry of Internal Affairs had received 14 complaints of ill-treatment of prisoners in 2015 and the first six months of 2016, could be reconciled with paragraph 121 of the periodic report, in which it was stated that no acts involving torture or cruel treatment had been recorded by agencies of that Ministry. The delegation should elaborate on the nature of those 14 complaints, explain whether they had given rise to administrative or judicial investigations and describe the measures being taken to guarantee respect for the right of alleged victims of torture to complain to, and have their cases promptly and impartially examined by, the competent authorities. In that connection, it would be useful to know whether a mechanism had been set up to examine allegations of torture made by civil society organizations.

53. He had been struck by the relatively high number of Turkmen refugees and asylum seekers. According to the Office of the United Nations High Commissioner for Refugees, there were 498 statutory Turkmen refugees worldwide. With that in mind, he wished to know what was being done to investigate persistent reports of torture and other ill-treatment in the State party.

The meeting was suspended at 12.35 p.m. and resumed at 12.45 p.m.

54. **Mr. Hudaynazarov** (Turkmenistan) said that, at the initiative of the President, his country had introduced a multiparty system, made the transition to a market economy and acceded to a number of international instruments. The Government attached great importance to meeting its commitments in that regard, including those relating to human rights.

55. The Constitution, which was implemented by government departments at the central, regional and local levels, prohibited human medical experimentation, torture and any other form of cruel, inhuman or degrading treatment or punishment. The Government cooperated with the United Nations human rights treaty bodies, as exemplified by the submission and presentation of the report under consideration.

56. In August 2012, the Criminal Code had been amended to establish a separate criminal offence of torture, bringing national legislation fully into line with relevant international standards. Perpetrators whose victims were women, minors or persons with disabilities faced greater criminal liability. The right not to be subjected to torture was non-derogable. The enjoyment of some other rights could be restricted or suspended in certain specific circumstances defined by law. The relevant government ministry was duty-bound to inform the Secretary-General of the United Nations of any temporary suspension of rights and of the reasons for it.

57. The bill relating to the Commissioner for Human Rights was set to be enacted in the near future. In drafting the bill, due consideration had been given to the experiences of other countries and to General Assembly resolution 67/163 on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights.

The meeting rose at 1 p.m.