

**Compliance with the Convention against  
Torture and Other Cruel, Inhuman or Degrading  
Treatment and Punishment**

**TURKMENISTAN**

**Alternative NGO report to the UN Committee  
against Torture (CAT)**

**Prepared by  
Turkmen Initiative for Human Rights (TIHR) and  
Turkmenistan's Independent Lawyer  
Association (ILA)**

**with the support of the  
International Federation for Human Rights (FIDH)**

*To be submitted for the review of Turkmenistan, CAT, 46<sup>th</sup> Session*

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## **Presentation of the submitting NGOs**

### **Turkmenistan's Independent Lawyers Association (ILA)**

ILA stems from a group of progressive attorneys, who despite of the pressure from Turkmen authorities continued their work in compliance with the country's laws. Due to the threats to personal safety, several lawyers from the group were forced to leave the country in 2003, while a group called "Galkan" continued its work. On 17 January 2007 the Turkmenistan's Independent Lawyers Association (ILA) was officially registered in the city of Utrecht, Netherlands.

The organization's primary focus is to monitor basic rights and freedoms of Turkmenistan's citizens and render pro bono counseling services to representatives of ethnic minorities, low income residents and civil society activists. ILA's associates prepare different materials, draft individual letters of complaint and conduct monitoring of Turkmenistan's penitentiary facilities. The prepared materials are submitted as reports to the UN Human Rights Committee, the OSCE and international human rights organizations.

The organization is supported by the Open Society Institute and The National Endowment for Democracy. ILA cooperates with Human Rights Watch, Amnesty International, "Memorial" Human Rights Center, Turkmen Initiative for Human Rights, the Kazakhstan Bureau for Human Rights and many other human rights organizations.

### **Turkmen Initiative for Human Rights (TIHR)**

The Helsinki Group of Turkmenistan was founded in July 2002 in Ashgabat (Turkmenistan). The group was forced to operate underground but nevertheless its members were systematically persecuted and repressed by the Turkmen authorities. Finally, they were forced to go into exile. The Turkmen Initiative for Human Rights (TIHR), its successor organization, was founded as an independent public organization and registered in November 2004 in Vienna, Austria.

In addition to human rights monitoring, TIHR also disseminates alternative information from Turkmenistan-based sources and virtually acts as an independent nongovernmental information agency.

Since 2004, the monitoring activities have been conducted with the support of the Open Society Institute. TIHR also enjoys the support of the National Endowment for Democracy and the Norwegian Helsinki Committee. Obtained information are disseminated to various departments of the United Nations, the European Union, the Organization for Security and Cooperation in Europe, many international human rights organizations and mass media. All materials are available on the website "Chronicles of Turkmenistan" (<http://www.chronotm.org>).

**The International Federation for Human Rights (FIDH)** is a federation of 164 human rights NGOs in over 100 countries, founded in 1922. FIDH has consultative status within the United Nation's Economic and Social Council (ECOSOC).

#### Establishing the facts – Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

#### Supporting civil society – Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

#### Mobilising the international community – Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

#### Informing and reporting – Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

## Introduction

### **BRIEF HISTORICAL BACKGROUND:**

Turkmenistan proclaimed its independence from the USSR on 27 October 1991. From 1985 to 21 December 2006, Saparmurat Niyazov (*Turkmenbashi*) ruled unchallenged the country. Opposition parties, independent mass media and civil society were inexistent. After S. Niyazov's death in December 2006, Gurbanguly Berdymukhammedov, former head of Health Care Ministry and Medical Industry, and a physician by training, was elected as the new Turkmen President in February 2007. In his speech at the first session of the Medjlis of Turkmenistan, President of G. Berdymukhammedov described the upcoming period as "*The Era of the great Renaissance*".<sup>1</sup>

Despite the announced reforms, the current authorities are faithful to the previous tradition and Turkmenistan remains one of the closest countries in the world: it is extremely difficult to enter the country and obtain unbiased information. Very few information is accessible on sensitive topics such as detention and prison facilities as well as medical institutions. The first report ever prepared on these issues was published in February 2010 by the submitting NGOs, namely Turkmenistan's Independent Lawyers Association (ILA) and Turkmen Initiative for Human Rights (TIHR).<sup>2</sup>

### **TORTURE IN CONTEXT: THE SITUATION OF HUMAN RIGHTS IN TURKMENISTAN**

Some recent decisions taken by the Turkmen authorities gave the impression that human rights and democracy have considerably improved. In press release issued in March 2009, the office of the former Commissioner for External Relations and European Neighborhood Policy, Ms. Benita Ferrero-Waldner, stated that with the election of the Turkmen president, Gurbanguly Berdymukhammedov, the country had entered a new phase of its development and disseminated positive signs of its readiness for change. In April 2009, the European Parliament (EP) lifted an 11-year long ban on the interim trade agreement with Turkmenistan. Indeed, since Mr. Berdymukhammedov became President, minor changes took place and were loudly praised by the international community. As their number has been rather small and not substantial, they can be easily listed. The Turkmen authorities have

- granted visits to the UN High Commissioner for Human Rights and the UN Special Rapporteur on freedom of religion to Turkmenistan;
- simplified internal travel procedures, abolished border zones and decreased number of security check points on the roads;
- allowed a tiny increase of internet access in the country with rigorous control of all "unsuitable" websites;
- adopted a new Constitution, several amendments of laws and bylaws as well as created numerous commissions, which have rather strengthened the government's control than yielded it;
- showed readiness to cooperate in a few projects of the United Nations Development Programs (UNDP);
- in December 2007, the Mejlis approved the "*Law on the Battle against Trafficking in Persons*";

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<sup>1</sup> Newspaper "*Neutral Turkmenistan*", No. 9, 10 January 2009

<sup>2</sup> Hereinafter data from Turkmenistan's Independent Layers Association and Turkmen Initiative for Human Rights is referred to. If information from other sources is quoted, there are footnotes referring to the relevant source document.

- The “*Criminal Code*” was updated and put in force on 1 July 2010 and has included penalties for trafficking offenses as defined in the above mentioned Law;
- The “Criminal Procedure Code”, published on 14 April 2011, is to enter into force 1 July 2011.

However, these reforms tend to hide the fact that most of the characteristics of the previous regime have not changed.

The personality cult of late president S. Niyazov has been replaced by the personality cult of the current president Berdymukhamedov. Turkmen mass media are still owned by the government and Turkmen citizens are not allowed to receive newspapers from abroad. Niyazov’s book *Rukhnama*” is still part of educational system. Displays of racism still persist and they are performed in very sophisticated ways. For expressing just a slight doubt about the rightness of Berdymukhamedov’s policies, an individual can be easily marked as a “Motherland betrayer” and “an enemy of the people” as stipulated by the law. Collective punishment is still widely applied: if a person is convicted, his relatives and friends risk ending up in prison as well or being deprived of many rights.

The daily work of non-governmental organisations (NGOs) have become more and more difficult. Registration procedures have made it possible for the government to interfere in the affairs of NGOs and close them down. NGOs are not seen as a potential support to the government, but rather as a disturbance.

Although cooperation between the State and NGOs, during preparation of such a report for UN committee is recommended, Turkmen authorities are not familiar with such an approach. Independent and professional human rights organizations have repeatedly stated that there are no substantial changes in the human rights situation in the country and that the authorities do not undertake any steps to strengthening democracy in the country.

In spite of the long list of treaties Turkmenistan is party to, the country has submitted only few reports to the different UN committees so far. The country’s approach tends to be either to delay to submit a report, as it was the case with the CAT, or to submit an initial report and delay follow up reports, as it was case with the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC). It is also more than surprising that the members of the *Inter-ministerial Commission* for the implementation of Turkmenistan's international commitments on human rights, were in process of receiving technical support - via a workshop – on how to prepare a report on implementation of the CRC Convention in July 2010, e.g. only three months before the deadline.<sup>3</sup>

## COMBATting TORTURE?

Turkmenistan became State Party of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 25 June 1999 and submitted its initial report, which was due in 2000, in 2011 only. Despite recommendations of several states during the Universal Periodic Review of Turkmenistan, it has neither ratified the Optional Protocol to the Convention against Torture (Brazil) and the Convention for the Protection of all Persons against Enforced Disappearance (Brazil) nor considered ratifying and establishing its national preventive mechanism according to the CAT Protocol (Czech Republic).

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<sup>3</sup> Trend News: „*Turkmenistan works out report on UN Convention on Rights of Child*“, 5 July 2010, at <http://en.trend.az/news/politics/foreign/1715418.html>

No information is accessible on any sensitive topics, let alone such as detention and prison facilities and medical institutions.

Since summer 2009, the *National Institute for Democracy and Human Rights (NIDHR)* co-organized a number of seminars and workshops on human rights issues, either with help of the OSCE Center in Ashgabat or UNICEF, because of the due report(s). However, there is no reliable information on education and training of legal professionals. Denied access of public bodies to prison facilities has resulted in flourishing corruption and a complete disregard of inmates' rights.

## THE CRUCIAL ISSUE OF DETENTION CONDITIONS

According to the data of ILA and TIHR, some 26.720 persons are in prison, which is 3.3 times more than the country's official prison capacity. At least hundreds of people, perhaps even more, languish in Turkmen prisons, following unfair trials. Many of them have been convicted based on false charges. Persons linked to an NGO or those who travel abroad within of an exchange program are often seen as potential "betrayers of the Motherland" and sentenced accordingly.

Turkmenistan's territory comprises 22 penitentiary facilities. These include 12 prisons, six pre-trial detention facilities, two occupational therapy rehabilitation centres, an in-patient hospital facility for convicts in custody and a penal battalion designed for military conscripts serving sentences (BLHK). There are fifty-three temporary holding facilities in each police department and one pre-trial detention facility. The total imprisonment capacity in the existing colonies and prisons (excluding BLHK) is currently 8100 inmates.

### Conditions of detention in Turkmenistan: an overview

Without any doubt, living conditions in Turkmen penitentiary facilities can be easily described as unbearable. In addition to the fact that facilities are physically run-down, they do not provide proper and sufficient nutrition, bathing and toilet facilities. Facts show that inmates' family members are those who maintain the prisons by providing not only for food, linens, toilet and hygiene articles, but also increase prison administrations' salaries by paying bribes.

- **Nutrition** in colonies is scarce and inmates often stay in long queues to obtain food. Most of the prisoners therefore depend on their relatives, who provide them with food;
- **Health protection** is almost inexistent. Prison administration does not even try to stop the spreading of diseases, which contributes to a fast spread of diseases, such as flu and tuberculosis. High mortality among inmates is therefore not surprising. In order to receive medical supply, inmates must again rely on their families. Drug abuse is another serious problem;
- It is extremely difficult to obtain a **work** within a prison and the only way to ensure one is by paying a bribe to prison administration;
- **Recreational activities** are almost inexistent, not only threatening the physical, but also the mental health of inmates;
- **Books** in prison libraries are very scarce.
- According to the law, inmates have the right to maintain **contact with the outside world** through visits and correspondence with their relatives. Even a bribe to prison staff, shortage of premises impedes regular visits to which inmates are entitled to;
- Juvenile delinquency is on the rise in the country. Due to lack of prison facilities for juveniles, these are often placed with adult inmates, especially juvenile females, as there is no prison for juvenile women;
- The country has two **occupational therapy rehabilitation centres**, which actually serve as penitentiary facilities and are used for those who are prescribed to undergo compulsory alcohol and substance abuse rehabilitation. Forced labour is the principle method to treat patients' addictions;
- Under former president S. Niyazov, between 8 and 10 thousand **inmates** were **amnestied** on an annual basis. Those on the so-called "black list" of the General Public Prosecutor cannot hope for an amnesty. The "list" contains names of intelligentsia representatives and all those opposing official policies. Most of them have been sentenced on criminal charges.

# Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment Turkmenistan

This report assesses article by article the compliance of Turkmenistan with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). The report is based on reliable sources from civil society, independent media, and different reports of international agencies and organizations.

## ARTICLE 2

In its report to the CAT, the Turkmen authorities have sent a list of 260 points with legal measures, which have been developed to prevent torture and other forms of cruel treatment. These measures prove not to be efficient and remain often not applied. There are numerous allegations about the use of torture and ill-treatment in closed institutions in Turkmenistan, and most of these alleged mistreatments occur during arrests and official registration within remand centres.<sup>4</sup>

The alleged assassination attempt of the late President Saparmurat Niyazov, which occurred in November 2002, gave an official justification to impose a “state of emergency” within the country and gave Niyazov a unique chance to liquidate potential enemies.

Some 23 persons were quickly charged for their involvement in the alleged coup d'etat. According to the official version, leading opposition figures included also former foreign minister Boris Shikhmuradov and former deputy agriculture minister Saparmurat Iklymov, who allegedly hired mercenaries. The number of those who were later arrested and charged for their involvement in the coup was much higher, but concrete figures are inexistent. Many of those arrested have been exposed to severe treatment in prisons and their destiny and whereabouts remain unknown.

*The faith of the former Turkmen foreign minister Boris Shikhmuradov remains unknown. In a closed trial, he was sentenced to 25 years' imprisonment in December 2002. A day later after he had been sentenced, his sentence was increased to life sentence by the People's Council, a body that was abolished in 2008. His family has no information on his whereabouts and does not know whether he is still alive.<sup>5</sup>*

Several former governmental officials and their relatives have disappeared and nothing is known about their whereabouts:

*Mr. Ovezgeldy Ataev, chairman of the legislature at the time of Niyazov's death and the constitutionally designated successor as interim president, was removed from succession due to criminal charges brought against him. On 22 December 2006, the day after Niyazov's death was made public, the Prosecutor General declared that Ataev had been found guilty of driving*

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<sup>4</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “*Turkmenistan Penitentiary Facilities*”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>5</sup> Amnesty International (AI): “Continuing Human Rights Concerns in Turkmenistan”, EUR 61/001/2010, 1 June 2010, at <http://www.amnesty.org/en/library/asset/EUR61/001/2010/en/42024a18-db4a-4a0c-ac2a-6b5b54d4191c/eur610012010en.html>

his stepson's fiancée to attempt suicide. According to various reports, he was sentenced in February 2007 to either four or five years' imprisonment.<sup>6</sup>

Mr. Yolly Gurbanmuradov, the deputy oil and gas minister, might also have faced a politically motivated imprisonment. He was dismissed in May 2005 and later sentenced to 25 years' imprisonment on charges of corruption and links with foreign intelligence services. Mr. Saparmamet Velyiev (or Valiyev), Mr. Ilyas Charyev, Mr. Orazmukhammed Atageldiev, Mr. Guichmurad Esenov, and Mr. Guichnazar Tachnazarov, all of them high-level oil and gas ministry officials were also dismissed and arrested in 2005. It is unclear whether they are still in custody or not.<sup>7</sup>

Six women were kept in the women's prison DZK-8 in Dashgouz, convicted for their alleged involvement in the attempted assassination. One of them is Nurtach Velmamedova, who is a relative of Mukhammed Nazarov, a former KNB chief. The women are not allowed to meet their relatives, receive parcels or letters. They have been prevented from interacting with other inmates by a barbed wire and guards, who escort these women to bathroom and to canteen.<sup>8</sup>

Ms. Olga Kabayeva, a daughter of the Turkmenistan's former KGB officer, who had unexpectedly died, left her a three-room apartment in the center of Dashoguz. She said that it was her friend from the Ministry of the National Security (MNS), who had offered her a glass of wine in order to celebrate a holiday. As soon as she came out to the market, she was detained by the police. The next day she was brought again to Dashoguz and has never been seen since.<sup>9</sup>

The faith and whereabouts of two members of Turkmen Helsinki Foundation Mr. Annakurban Amanklychev and Mr. Sapardurdy Khajiev, who were charged for helping French television journalists, remains also unclear. National Security Minister Geldymukhammed Ashirmukhammedov accused Annakurban Amanklychev of being involved in an alleged conspiracy to overthrow President Saparmurat Niyazov's government.<sup>10</sup> Radio Free Europe/Radio Liberty's journalist and human rights activist Ogulsapar who was arrested and condemned along with Annakurban Amanklychev and Mr. Sapardurdy Khajiev, died in custody in September 2006 (see infra).

Under current Turkmen President Berdymukhamedov, the practice of collective punishment established under his predecessor has not stopped.

The spouse of the former speaker of Turkmen Parliament Ovazgeldi Ataeva<sup>11</sup>, the spouse of the former Prime Minister Ella Gurbanmuradova and the former Chief Public Prosecutor G. Atadzhanova have been placed in the women's colony DZK-8 in Dashoguz.<sup>12</sup>

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<sup>6</sup> Human Rights Watch (HRW): "Letter to President Gurbanguly Berdymukhamedov regarding human rights concerns in Turkmenistan", 12 March 2009, at <http://www.hrw.org/ru/news/2009/03/12/letter-president-gurbanguly-berdymukhamedov-regarding-human-rights-concerns-turkmeni>

<sup>7</sup> Human Rights Watch (HRW): "Letter to President Gurbanguly Berdymukhamedov regarding human rights concerns in Turkmenistan", 12 March 2009, at <http://www.hrw.org/ru/news/2009/03/12/letter-president-gurbanguly-berdymukhamedov-regarding-human-rights-concerns-turkmeni>

<sup>8</sup> TIHR, "Chronicles of Turkmenistan": "Replacement of prison staff brought no improvements for female inmates", 24 July 2005, at <http://www.chrono-tm.org/en/?id=148>

<sup>9</sup> TIHR, "Chronicles of Turkmenistan": "The more people we send to jail – the better!", 21 December 2010, at <http://www.chrono-tm.org/en/?id=1559>

<sup>10</sup> RFE/RL: "RFE/RL Correspondent Dies In Turkmen Custody", 14 September 2006, at <http://www.rferl.org/content/article/1071322.html>

<sup>11</sup> Shortly after S. Niyazov's death, a criminal case was initiated against the Chairman of the Turkmenistan's Parliament Ovezgeldi Atayev, who was, according to the previous Constitution, due to become the acting president upon Niyazov's death. O. Atayev was sentenced in 2007 to four years of imprisonment for an alleged incitement to suicide of his own daughter-in-law. His wife was also charged with the same offences.

<sup>12</sup> TIHR, "Chronicles of Turkmenistan": "Wives of convicted officials are also charged", 16 April 2007, at <http://www.chrono-tm.org/en/?id=342>

Mr. Osman Hallyev, a longtime correspondent for Radio Free Europe/Radio Liberty's Turkmen Service, said that he had been placed under what amounts to house arrest in January 2009, due to his work for RFE/RL. He and his family members have been receiving death threats, due to his journalistic activities. Also his international phone lines have been severed since mid-November 2008, as well as his access to the Internet. The local Prosecutor's Office did not react to his complaints. Hallyev was already subjected to harassment in December 2008 during coverage of Turkmenistan's parliamentary elections. His son, daughter-in-law, and son-in-law have been sacked from their jobs and have not been rehired. Mr. Hallyev has complained to a local prosecutor, but was told that the whole proceeding is within the law, implying that an order had been sent from higher authorities.<sup>13</sup>

Dovletmurat Yazguliev, another contributor for RFE/RL from the eastern province of Akhal, said that he and his wife were summoned at the end of December 2008 to a local government office. Intelligence officers questioned him about his work and threatened him with reprisals if he did not quit his work for RFE/RL.<sup>14</sup> On a 12 January 2009 letter, the Paris-based media watchdog Reporters Without Borders (RSF) expressed concern over the harassment of Hallyev and his RFE/RL colleague, Dovletmurat Yazguliev, in Turkmenistan. Yazguliev was recently interrogated by local authorities who requested that he stops working for RFE/RL.<sup>15</sup>

Moreover, the authorities have intensified the fight against so-called "potential terrorists", many of them being members of untraditional Islamic groups.<sup>16</sup>

*The police allegedly found weapons in house of Mr. Shiri Geldimuradov, a 73-year old priest, which justified his arrest along with his sons in April 2010. Mr. Shiri Geldimuradov, died in custody, while his sons are still in prison.*<sup>17</sup>

### ARTICLE 3

According to article 8 of the Turkmen Constitution, "Foreign nationals and stateless persons enjoy the rights and freedoms, and bear the responsibilities, of citizens of Turkmenistan in accordance with law and international treaties of Turkmenistan. Turkmenistan, in accordance with universally recognized norms of international right and in the order established by the law, gives refuge to foreign citizens and stateless persons."

The Turkmen Constitutional Law on "Independence and Fundaments of Turkmen Statehood", without referring to a concrete article, provides that "to foreign citizens, stateless persons, who find themselves on Turkmen territory, all rights and freedoms are guaranteed, which are foreseen by laws and the Constitution, international agreements and norms of international law."

Article 9, para 2 of the Turkmen Criminal Code states that foreign citizens and stateless persons, who commit a crime on the territory of Turkmenistan can be handed to a foreign state in order to prosecute him/her for committed criminal offenses or for serving a sentence

<sup>13</sup>RFE/RL: "RFE/RL Turkmen Service correspondent Osman Hallyev", 14 January 2009, at [http://www.rferl.org/content/Death\\_Threats\\_Harassment\\_Of\\_RFERL\\_Turkmen\\_Correspondent\\_Continue/1369892.html](http://www.rferl.org/content/Death_Threats_Harassment_Of_RFERL_Turkmen_Correspondent_Continue/1369892.html)

<sup>14</sup> Reporters Without Borders (RSF): "RFE/RL provincial correspondents harassed and threatened by intelligence officers", 8 January 2009, at [http://en.rsf.org/turkmenistan-rfe-rl-provincial-correspondents-08-01-2009\\_29920.html](http://en.rsf.org/turkmenistan-rfe-rl-provincial-correspondents-08-01-2009_29920.html)

<sup>15</sup> RFE/RL: "Turkmenistan - RFE/RL Correspondent Threatened", 15 January 2009, at <http://www.rferl.org/content/pressrelease/1370332.html>

<sup>16</sup> TIHR, "Chronicles of Turkmenistan": "Low-key fight against "vakhabits", 24 August 2010, at <http://www.chrono-tm.org/en/?id=1458>

<sup>17</sup> TIHR, "Chronicles of Turkmenistan": "Low-key fight against "vakhabits", 24 August 2010, at <http://www.chrono-tm.org/en/?id=1458>



for committed crime, in accordance with international treaties to which Turkmenistan is party. The above article of the Criminal Code might violate article 3 para 1 of the Convention which states that “*No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.*”

On the other hand, article 9, paragraph 1 of the Code, states that citizens of Turkmenistan who have committed a crime in the territory of another State are not subject to extradition to that State.

#### ARTICLE 4

The new Turkmen Penal Code entered into force on 1 July 2010. The code, which was drafted in cooperation with international experts, in order to bring it “*in line with international standards*”, replaced the previous one which dated back to Soviet time.<sup>18</sup>

The new Criminal Procedure Code has been published on 14 April 2011 and should enter into force on 1 July 2011 e.g. a year after the new Penal Code was put in force.<sup>19</sup>

However, there is still no special definition of “torture” in Turkmen legislation. The new Turkmen Criminal Code does not use the word “torture” at all, while article 23 of the Turkmen Constitution mentions it, but gives no further description. The Turkmen authorities do not undertake any measure to prevent or investigate the use of torture. On the contrary, torture is used as a threat in order to prevent wide-scale unrest of people and prevent their political and social engagement.

The initial report to the CAT by the Turkmen government does not give any answer to the question whether the country’s Criminal Code contains a norm which foresees [legal] measures for committing torture. The government tries to wash it out with a vague formulation within article 7 para 3 which states that the Code contains penal measures for committing physical and moral suffering. The mentioned article states that “...punishment and other punitive measures applied to persons who have committed a crime cannot have as their goal the infliction of physical suffering or the degradation of human dignity”. Such a formulation imposes a conclusion that the government simply refuses to admit the existence of torture in Turkmenistan. The Turkmen Criminal Code does not contain any definition of “torture” and only article 23 of the Turkmen Constitution mentions “torture”, without giving further description. No definition of torture in accordance with art. 1 of the Convention exists.

Turkmenistan’s criminal law contains an appropriate punishment for the use of unauthorized methods by members of law enforcement services in dealing with a suspect. However, rather than the word “torture,” the phrase “exceeding the limits of authority” is used in reference to these “unauthorized methods.” For example, according to article 182, para 2 it is stated that exceeding the limits of authority is punishable by law, “if the act is accompanied by actions that a) violates the personal dignity of the victim, b) is committed with physical violence, c) is committed with weapons or special devices or had serious consequences, d) it is punishable by deprivation of liberty for 3 to 8 years, with deprivation of the right to hold certain posts or engage in certain activities for up to 3 years, e) the obligation to live in a specific area for 5 to 8 years with deprivation of the right to hold certain posts or engage in certain activities for up to 3 years”. However, over the past ten years, only four members of law enforcement

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<sup>18</sup> TIHR and the Turkmenistan’s Independent Lawyers Association’s Report: “*Turkmenistan Penitentiary Facilities*”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>19</sup> “Хроника Туркменистана”: “В Туркменистане опубликован Уголовно-исполнительный Кодекс”, 14 April 2011, at <http://www.chrono-tm.org/?id=3055>

services have been charged under this article. Meanwhile, torture in the direct meaning of this word is widely used on detainees.

## ARTICLE 10

Since summer 2009, the *National Institute for Democracy and Human Rights (NIDHR)* co-organized a number of seminars and workshops on human rights issues, either with the help of the OSCE Center in Ashgabat<sup>20</sup> or UNICEF, because of the due report(s). A three-year program, entitled "*Strengthening the capacity of Turkmenistan to promote and protect human rights*" and supported by the European Commission (EC), United Nations Development Program (UNDP) and the Office of the High Commissioner for Human Rights (OHCHR), was discussed during the EC meeting with the Turkmen government on 7 September 2010 in Ashgabat.<sup>21</sup> The project was designed to help develop "a *constructive dialogue with international organizations to further improve the socio-legal system of human rights, as well as organization of thematic international forums, workshops, study visits*".<sup>22</sup> Turkmen governmental institutions and public associations should enhance their knowledge about the UN human rights system in a series of workshops across the country, within the framework of the project. Participants should become an opportunity to learn about international human rights standards, familiarize with their application at the national and local level, and understand how the UN treaty body system functions. Preparation of reports to UN human rights mechanisms and follow-up to recommendations from these mechanisms are also an important part of these workshops.<sup>23</sup>

However, there is no clear nor reliable information on education and training of state agents.

## ARTICLE 11

### LACK OF TRANSPARENCY OVER THE SITUATION IN PRISONS

Denied access of public bodies to prison facilities has resulted in flourishing corruption and a general disregard of inmates' rights. The only report so far on the situation in the Turkmen penitentiary system was published by the Turkmen Initiative for Human Rights (TIHR) and the Turkmenistan's Independent Lawyers Association (ILA) report in February 2010.

Despite the scarcity of information about the penitentiary system, it was reported that a high number of suicides have been committed or attempted by inmates. Any independent forensic examination into the causes of unnatural deaths has been prevented.

### VISITS OF DETENTION FACILITIES

Since the independence of Turkmenistan, the International Committee of the Red Cross and Crescent (ICRC) has been denied access to the penitentiary facilities, despite the organisation's repeated requests and the government's adoption of the UN Human Rights Council's recommendations according to which it is obliged to "allow regular access of ICRC to prisons and detention facilities"<sup>24</sup>.

<sup>20</sup> OSCE Center in Ashgabat, Newsletter, Fall 2009, at [http://www.osce.org/publications/cit/2009/11/41505\\_1390\\_en.pdf](http://www.osce.org/publications/cit/2009/11/41505_1390_en.pdf)

<sup>21</sup> IWPR (by Tadjigul Begmedova): "*Turkmenistan: The Human Rights Project Needs a Higher Instance than the Turkmen Authorities*", 25 September 2010

<sup>22</sup> Turkmenistan.ru: "EU and Turkmenistan implement three-year programme on human rights", 8 September 2010, [http://www.turkmenistan.ru/?page\\_id=3&lang\\_id=en&elem\\_id=17759&type=event&sort=date\\_desc](http://www.turkmenistan.ru/?page_id=3&lang_id=en&elem_id=17759&type=event&sort=date_desc)

<sup>23</sup> Turkmenistan.ru: "*Turkmenistan's officials enhance knowledge about UN human rights system*", 13 September 2010, at [http://www.turkmenistan.ru/?page\\_id=3&lang\\_id=en&elem\\_id=17806&type=event&sort=date\\_desc](http://www.turkmenistan.ru/?page_id=3&lang_id=en&elem_id=17806&type=event&sort=date_desc)

<sup>24</sup> UN Human Rights Council Reso XX/YY/ZZ, 6 January 2009

## A GROWING NUMBER OF PEOPLE IN PRISON

The wave of arrests, which occurred throughout Turkmenistan in the last ten years, is rising. Many detainees have been convicted on the basis of false charges. Human rights defenders, journalists and people traveling abroad are especially targeted and might be presented as a potential “betrayers of the Motherland” and sentenced accordingly.

*Mr. Andrei Zatoka, a 53-year-old human rights defender and environmentalist, was arrested by police on 20 October 2009 in Dashoguz. According to witnesses, Andrei Zatoka was shopping in the market in Dashoguz on the morning of 20 October when an unknown man punched him. He tried to call the police, but two police officers standing nearby arrested Mr. Zatoka and took him to a police station. He was then sent to a pre-trial detention centre run by the Ministry of Justice, where officials told him that he would be held for 15 days for “hooliganism”. However, later that day he was told that he would remain in custody, as he was suspected of inflicting injuries of “medium severity” to the man in the market. The officials told him that this was corroborated by medical experts and two alleged witnesses. According to TIHR, “the vendors and customers in the market who saw the incident were not summoned as witnesses”. On 23 October, Andrei Zatoka had been charged with “intentional infliction of medium injuries”, which under Turkmen law is punishable by imprisonment for up to five years. Under strong international pressure, Mr. Zatoka was released from the custody and left to Russia, which he is a citizen of.<sup>25</sup>*

A number of businessmen were requested money in order to close their cases. Our organizations have documented cases in which owners of an apartment were forced to leave it and were placed to a compulsory treatment in a detoxication clinic. The apartment was taken by another person and they lost any right to get it back.<sup>26</sup>

## DRAMATICALLY OVERCROWDED DETENTION FACILITIES<sup>27</sup>

It is extremely difficult and risky to obtain any information, let alone any statistical data, on prison situation in Turkmenistan. Associates of Turkmenistan’s Independent Lawyers Association (ILA) have monitored selected penitentiary facilities in the country and provided information, which give a general overview of the situation within the area.<sup>28</sup>

According to the information on prison population published by King’s College in London in 2006, the total number of inmates, including pre-trial detainees, amounted to 10,953 with a prison population rate of 224 inmates per 100.000 inhabitants. The occupancy rate in 2006 was 85%. Comparing to data from 1997 (18,000), 2000 (22,000) and 2005 (13,462), the prison population trend showed decreasing numbers.<sup>29</sup>

The ILA’s data, published in the above mentioned report, show quite a different picture: prior to the Amnesty Act in December 2009<sup>30</sup>, the prison population totalled 26.720 persons, i.e. 3.3 times more than the official penitentiary facilities’ capacity.<sup>31</sup> A five million nation accommodates 534 wrongdoers per 100.000 inhabitants. In Kazakhstan there are 348 persons per 100.000 inhabitants<sup>32</sup>, while in Kyrgyzstan are 285 per 100.000 inhabitants. European countries hold 80-90 persons per 100.000 inhabitants in prisons.<sup>33</sup>

<sup>25</sup> Amnesty International (AI): “Turkmenistan: Environmentalist arrested in Turkmenistan”, 27 October 2009, at <http://www.amnesty.org/en/library/asset/EUR61/006/2009/en/4263acff-37e8-42ad-9b16-058ad5d3fe87/eur610062009en.html>, paragraph 1 and 2.

<sup>26</sup> TIHR, “Chronicles of Turkmenistan”: “The more people we send to jail – the better!”, 21 December 2010, at <http://www.chrono-tm.org/en/?id=1559>

<sup>27</sup> A list of all facilities with their location, estimated capacity and a map is attached to the report.

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<sup>29</sup> King’s College, London: “Prison Brief for Turkmenistan”, at [http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb\\_country.php?country=115](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_country.php?country=115)

<sup>30</sup> From the newspaper “Neitralny Turkmenistan” №310-314 of 3.12.2009

<sup>31</sup> Data from 2010 are still not available

<sup>32</sup> Gazeta.kz: “Предупрежден, значит, вооружен?”, 26.06.2007, at <http://www.gazeta.kz/art.asp?aid=92897>

<sup>33</sup> TIHR, “Chronicles of Turkmenistan”: “Turkmenistan’s imprisonment rate is one of the highest in the world”, 22 February 2010

Prisons are overcrowded, with poor nutrition and almost inexistent medical care. The total imprisonment capacity in the existing colonies and prisons (excluding BLHK) is currently 8100 inmates.

The number of 26.720 convicts does not include those who are kept in pre-trial detention facilities, IVS temporary holding facilities, occupational therapy rehabilitation centres and the penal battalion. It should be noted that pre-trial detention facilities hold also those who had already been sentenced but have not yet been transferred to colonies.<sup>34</sup>

JURISDICTION	TYPE OF CUSTODY	NUMBER
<b>MINISTRY OF JUSTICE</b>		
	PRISONS	12
<b>MINISTRY OF INTERIOR</b>		
	PRE-TRIAL DETENTION FACILITIES (SIZO)	6
	IN-PATIENT HOSPITAL FACILITY FOR CONVICTS IN CUSTODY	1
	TEMPORARY HOLDING FACILITIES IN EACH POLICE DEPARTMENT	53
<b>MINISTRY OF HEALTH</b>		
	OCCUPATIONAL THERAPY REHABILITATION CENTER	2
<b>MINISTRY OF DEFENSE</b>		
	PENAL BATALION	1
<b>MINISTRY OF NATIONAL SECURITY</b>		
	PRE-TRIAL DETENTION FACILITY	1
	TEMPORARY HOLDING FACILITY	1

Though 3.934 inmates were released in 2009<sup>35</sup>, the six pre-trial detention facilities, designed for 1.120 persons, hold much more inmates than foreseen by the official capacity of these institutions. During the International Human Rights Day (10 December 2010), the state newspaper “*Neutrally Turkmenistan*” published a Decree of the President of Turkmenistan “*On Amnesty of Convicts in honor of the National Holiday of Turkmenistan – The Day of Neutrality*”. The decree included list of those who had been convicted two to three months ago and those who had paid bribes.<sup>36</sup>

#### ILL-TREATMENT OF INMATES

Inmates from penitentiary facility BLD-4, a detention facility under the jurisdiction of the Interior Ministry, reported cases where special operation squadrons broke into cells and beat inmates with rubber truncheons and handcuffs. This happens on a regular basis and serves as a “prevention measure”, with the purpose of frightening inmates. These squadrons, or

<sup>34</sup> It is impossible to obtain number of people held in pre-trial detention and IVS holding facilities in Turkmenistan.

<sup>35</sup> Data from 2010 are still not available

<sup>36</sup> TIHR, “*Chronicles of Turkmenistan*”: *The more people we send to jail – the better!*”, 21 December 2010, at <http://www.chrono-tm.org/en/?id=1559>

Special Task Forces which are placed under the responsibility of the Correctional Affairs Directorate in Ashgabat, fall within jurisdiction of the Interior Ministry<sup>37</sup>.

*Former police officer and senior lieutenant from the city of Turkmenbashi, Tirkesh Aymuradov, was repeatedly exposed to physical abuse by administration of the BLK-4 detention facility and fellow inmates. Mr. Aymuradov is a family member of the former defence lawyer of the Balkan Public Defenders' Office Ms. Kulieva, who was sentenced to a prison term on trumpeted-up criminal charges, because of refusing to drawback to pressure and intimidation exerted by the authorities. Upon submitting a complain to the indictment of his relative, Mr. Aymuradov's lawyer witnessed abusive treatment inflicted upon his client: almost all his teeth were knocked out, he had a large number of scratch marks and bruises on his body and face, and cigarette burns on his body. The detention's executives claimed that tooth crowns are not allowed in the facility. The other bodily injuries were attributed to the stubborn and obstinate personality of the inmate, who reportedly provoked arguments with other inmates. After the attorney officially addressed the Public Prosecutor, who monitored implementation of the regulations in the detention facility, the abusive treatment against Mr. Aymuradov stopped. No one has been declared responsible for the mistreatment.*<sup>38</sup>

#### THREATS AND FEAR AS A WAY TO CONTROL INMATES

Solitary confinement is used as a method to threat new inmates and as punishing procedures for those who refuse to do "dirty work" within prison, such as cleaning of toilets.<sup>39</sup> Special security measures are also applied to those who have been sentenced and imprisoned for terrorist activities.<sup>40</sup>

In order to keep inmates obedient and ensure constant fear among them, administrations of prisons and colonies place inmates in isolation wards and expose them to mass beatings of special law enforcement squadrons, which enter cells and mistreat inmates.<sup>41</sup> It has been observed in the LBK-12 facility, though not only there, that the prison administration knew about mistreatment of inmates and even gave instructions to the guards and third parties to conduct them.<sup>42</sup>

The detainees who are for the first time in a colony are not aware of the unofficial prison rules: they usually complain about the abusive behaviour of their fellow inmates and the lack of action of the colony employees. These inmates therefore usually face violence, upon voicing their discontent publicly, as they are not aware that prison employees are hand in glove with these inmates who abuse them.

*The Tekin tribal group is the most numerous and influential in LBK-12 colony. Its powerful status is corroborated by the colony's head affiliation to the same tribe. Mr. Murat Mergenov, a resident of the Kazandjinsky district, was placed in the LBK-12 colony in May 2008 to serve a three-year-term. He was reluctant to join any of the antagonized groups, but was repeatedly subjected to psychological pressure and physical abuse by other convicts. The head of the colony did not respond to his complaints and Mr. Mergenov was forced to tolerate humiliating treatment and mistreatment.*<sup>43</sup>

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<sup>37</sup> Agentura.ru: "Спецназ Туркмении", at <http://www.agentura.ru/dossier/turkmen/specnaz/>

<sup>38</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>39</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>40</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>41</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>42</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>43</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

## ACTS OF TORTURE, CRUEL, DEGRADING AND INHUMAN TREATMENTS SUFFERED BY INMATES ON A DAILY BASIS

*One such incident occurred in 2009, when the “prevention campaign” lasted from 22 till 25 May. Bodily injuries of various severity were inflicted on 28 inmates, while 37 inmates were moved to special isolation wards without further explanations. A detainee, E. Deryakuliev, who was charged with disorderly conduct, died and his body was handed over to his family five days later. As the cause of his demise was indicated “natural death”.<sup>44</sup>*

*Inmates in the women's prison DZK-8 in Dashoguz are often forced to clean toilets, also known as a “pedagogic approach”. Those who refuse to clean the toilets are placed in punishment cells, which are freezing during winter and unbearably hot during summer. The punished inmates are handed only a piece of bread and water, and are regularly beaten. Bribed soldiers, who act as guards within the wing with punishment cells, hand these women food which is sent by other inmates from the DZK-8 prison.<sup>45</sup>*

*A woman reported that her son has been imprisoned since 2002 in the Ovadan-depe prison. He is not allowed to receive parcels. In a message he sent to his mother, he wrote that he needs some medicine, which turned to be a medication that causes indifference to pain. “It means that they are continuing to torture there, in Ovadan-depe?”<sup>46</sup>*

*One of RFE/RL's provincial correspondents in Turkmenistan, Sazak Durdymuradov, was arrested by intelligence officers on 20 June 2008 and was tortured for two weeks during his apprehension.<sup>47</sup>*

## RAMPANT SEXUAL VIOLENCE AND ACTS OF TORTURE

In 2008 over 30 inmates died during fights within LBK-12 prison.<sup>48</sup>

In women's colony DZK-8 in Dashoguz cases of physical abuse against the inmates perpetrated by the colony's administration and staff has been often reported. Beatings and rape, as well as use of torture and psychological pressure, committed by the colony staff, are rampant.<sup>49</sup>

*One of the former inmates, Svetlana Q., who was serving an eight-year-sentence in the colony, reported that she and many other women had been regularly subjected to physical abuse and psychological pressure without any reason. A number of women have been raped by the colony staff. Upon leaving the colony, she emigrated from the country.<sup>50</sup>*

Many women from the same prison reported that bludgeon was inserted into their anus. Such unbearable conditions result in frequent suicide attempts among inmates. Only in 2008-2009, eight women committed suicide.<sup>51</sup>

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<sup>44</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>45</sup> TIHR Report: “Women in Turkmen Prisons”, 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>46</sup> TIHR, “Chronicles of Turkmenistan”: “The more people we send to jail – the better!”, 21 December 2010, at <http://www.chrono-tm.org/en/?id=1559>

<sup>47</sup> Reporters Without Borders (RSF): “RFE/RL provincial correspondents harassed and threatened by intelligence officers”, 8 January 2009, at [http://en.rsf.org/turkmenistan-rfe-rl-provincial-correspondents-08-01-2009\\_29920.html](http://en.rsf.org/turkmenistan-rfe-rl-provincial-correspondents-08-01-2009_29920.html)

<sup>48</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>49</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>50</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>51</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

Ms. Enebai Ataeva (the former Minister of Culture), her sister Ms. Maya Geldyeva (convicted in the case on misappropriation of 40 million dollars in 2002), Kurbanbibi Atadjanova (the former Attorney General), her daughter and one of her subordinates (the names unknown) as well as Ms. Guzel Ataeva have been kept separately from other convicts in a specially-designed barrack fenced with barbed wire. Construction of the barrack has prevented them to communicate with each other and other DZK-8 inmates were also forbidden to approach the area, under the threat of punishment. Ms. Guzel Ataeva, a spouse of the former Chairman of Turkmenistan's Parliament Ovezgeldy Ataev, who has been kept in detention for over a year and a half, tried to commit a suicide in July 2008. Ms. Ataeva leanded her bed in a vertical position against the wall and tried to hang herself. The guards heard the noise and managed to prevent her to hang herself.<sup>52</sup>

#### TORTURE IN PRE-TRIAL DETENTION FACILITIES

Pre-trial detention facility BLD-4, which is under the jurisdiction of the Interior Ministry, is located in the city of Turkmenbashi. Though it has a capacity for 200 inmates, 800 persons are currently accommodated there. Many of them had been convicted and have not been transferred to colonies yet.

Seven detainees died in the temporary holding facility as a result of abusive and violent treatment during the first three months of 2009. Exact number of deaths in detention facilities is extremely high, but an exact number is not known, as access to such information is impossible. However, a survey of cases that the TIHR and ILA had access to shows that the death toll among the detainees during the interrogations in temporary holding facilities has been extremely high. It turns out that every second person was exposed to varying types of abusive treatment and torture.<sup>53</sup>

Number of deaths in detention facilities is extremely high, but an exact number is not known, as Turkmen authorities block access to such information. Any independent forensic examination into causes of unnatural deaths has been prevented. Despite the scarcity of information about the penitentiary system, it was reported that a high number of suicides have been committed or attempted by inmates.

### **ARTICLE 12**

The Turkmen authorities do not undertake any measures to prevent or investigate use of torture.

*Radio Free Europe/Radio Liberty's journalist and human rights activist Ogulsapar Muradova died in custody on 14 September 2006. Allegedly, she died already on 10 September and many elements tend to indicate that her death was caused by torture in the notorious Ovodan Depe high-security prison. Her body was taken to the Ashgabat morgue on the night of 10 September. According to "Deutsche Welle", Muradova's neck showed "marks ... of strangling", a large wound was inflicted to her head, while internal bleeding was also observed. The death would be caused by blows to the back of her head, which were inflicted seven to ten days before she died. These findings were recorded on an official document, but the police changed them later on. A family member who was in contact with Muradova, reported that Muradova had told her that she could not stand the mistreatment any more.<sup>54</sup>*

*Security officials at the morgue assured the family that Muradova died of natural causes and they denied any wrongdoing. As her relatives requested an independent examination of her body, the employees of the morgue began to threaten them.<sup>55</sup>*

*The circumstances of her death still have not been investigated.*

<sup>52</sup> TIHR, "Chronicles of Turkmenistan": "A suicide attempt in the female colony", 2 September 2008, at <http://www.chrono-tm.org/en/?id=583>

<sup>53</sup> TIHR and ILA cannot disclose their sources. The exact number of deaths in Turkmen prisons does not exist.

<sup>54</sup> Reporters without Borders: "Muradova died under torture in high-security prison at least four days before her family was told", 20 September 2006, at <http://en.rsf.org/turkmenistan-muradova-died-under-torture-in-20-09-2006.18938.html>

The “President’s Commission to Investigate Citizens’ Complaints and Allegations of Unlawful Actions by Agencies of Law Enforcement”, established in 2007 at a time when people trusted the new President, received more than 1000 complaints and during the first three months of 2007. Most of the complaints addressed torture and brutality of the employees of the law enforcement agencies, including employees of national security. However, none of the above mentioned employees was punished according to the law. Fired were only Minister of Interior and Minister of National Security, and the citizens’ complaints were sent back to those agencies and officials who were responsible for acts of torture. Later on, the flow of complaints sharply decreased as citizens realized that it would not have any effect. According to the president and the government, the lack of complaints is to be assigned to the effective work of the mentioned commission, which still formally exists.

### ARTICLE 13

Turkmenistan’s judicial system is dysfunctional, with judges being appointed and removed by the Turkmen president without any legislative review. Our organisations documented cases according to which the authorities frequently deny rights of due process, including public trials and access to defence attorneys. In practice, judges often do not ask for any detailed explanation about accusations and do not challenge the information they are provided with. As a rule, detainees who do not speak Turkmen and/or read Latin script are faced with charges they do not understand. Education and training of lawyers is poor and they often prefer not to argue with the authorities.

Upon being brought in front of a judge, the accused are regularly threatened and mistreated as a way to intimidate them. A good example is the case of mullah Khalil, in 2010, who had been beaten for one week in a detention center while his attorney was denied access to his defendant.<sup>56</sup> (See more on the case under article 15).

There is no independent body in Turkmenistan which would impartially examine complaints on harsh practices committed by law enforcement agencies. Even if a commission would examine these cases, these commissions are as a rule appointed by the President.

The only institute which is designed to engage with citizen’s rights is called “National Institute for Democracy and Human Rights under the President of Turkmenistan”. Such a denomination raises distrust among Turkmen citizens and they are sceptical that an institute entrusted in President’s care can protect their rights.

Although the point 195 of the report submitted by the Turkmen government to the Committee against Torture states that “(...) *In monitoring the enforcement of the law, the procurator has the right to: (...) Have knowledge of documents on the basis of which these persons have been placed in detention, remanded in custody, convicted or subject to coercive measures; Verify the legality of orders, instructions and decisions of administrative bodies and contest them if they are in violation of the law; demand explanations from officials*” this does not seem to be practice, as shows the case of the Berdiyev family:

*In late 1998, Mr. Bazargeldy Berdyev was detained in the pre-trial detention center of the National Security Committee (NSC) and tortured for three months. Officers of the NSC intended to bring criminal charges against him for fraud and infliction of large-scale damage. Mr. Berdyev became disabled, due to inflicted injuries. His wife, Ms. Aydjemal Berdyev, who was expecting a child at the time, was held in the pre-trial detention facility for five days. Due to mistreatment in*

<sup>55</sup>RFE/RL: „RFE/RL Correspondent Dies In Turkmen Custody”, 14 September 2006, at <http://www.rferl.org/content/article/1071322.html>

<sup>56</sup> TIHR, “Chronicles of Turkmenistan”: “Low-key fight against “vakhabits”, 24 August 2010, at <http://www.chrono-tm.org/en/?id=1458>



the detention facility, she lost the child, her hand was broken and she was injected drugs, due which she lost conscious. Without a court ruling, the officers of the NSC (their names and job titles are known) confiscated the Berdyevs' property.

The Berdyevs appealed to Turkmenistan's Prosecutor-General's office, the Institute of Democracy and Human Rights under the President of Turkmenistan, the OSCE Centre in Ashgabat, the UN representation offices, the International Court for Human Rights. As a result, the Turkmen law enforcement agencies had to admit that the Berdyevs were right and the director of the National Institute of Democracy and Human Rights Ms. Sh. Akhmedova sent them a letter in May 2009.

Among other things, the letter says: "Having examined your application and considered the materials on the illegal confiscation of the following property: Mercedes 500, 293.000 US dollars, 5 hand-made carpets, as well as having considered the killing of an unborn baby during torture, we confirm the facts you stated. The materials were forwarded to the Committee on Human Rights Protection under the President of Turkmenistan, the Chairman of the Supreme Court and Turkmenistan's Prosecutor-General. Director Sh. Akhmedova".<sup>57</sup> Despite of the letter, the Berdiyevs continue to be subjected to repressions by the law enforcement agencies. Plain clothed officers stop them on the street, beat them and threaten to kill them. The Prosecutor-General's office pressures them to withdraw the request for compensation for psychological and material damage, while the special services prevent them from engaging in entrepreneurship or find a job. The Berdiyevs are impeded to sell their property. Ms. Berdiyev was forcibly placed in a psychiatric clinic where she was injected unidentified drugs and only recently returned home. The deputy prosecutor has threatened to return her in the psychiatric clinic. As a result, her relatives fear that she might commit suicide.

A recently sent summoning cited them to appear on 23 March 2011 in a police station in the Kopetdag etrap of Ashgabat. They were threatened with articles 68, 69, 157, 196 of Turkmenistan's Criminal Code, in case they refused to come on that date.<sup>58</sup>

Only a few detainees dare to complain in a presence of their defence lawyer about the police officers who exerted physical abuse and psychological pressure on them. Some share this only with their attorneys and refuse to submit official complains out of fear of the police.

In April 2009, parents of a detainee (L.) contacted an attorney requesting to render legal counselling to their son. The latter had been arrested by police and subjected to beatings and assaults for two days in a temporary holding facility of their town. The parents were informed about it by their neighbour, a staff member of the temporary holding facility. The detainee had traces from severe beatings on his body, after being beaten by a criminal investigation officer who wanted to coerce a confession to a crime, which the detainee had not committed. However, L. refused to submit an official complaint. Prior to the appointment of the attorney, he was threatened by police officers. Due to the defence attorney, the detainee was released and placed in a hospital for a lengthy treatment of his kidney problems.<sup>59</sup>

## ARTICLE 14

Article 36 of the Code of Criminal Procedures addresses issue of discontinued criminal proceedings, because no crime has been committed. The article states that "if the act in question is not a crime or because the person concerned was not involved in the commission of a crime, the body conducting the initial inquiry, the investigator, the procurator or, in the event of an acquittal, the judge or the court must inform the victim of the procedure whereby his rights can be restored and compensation obtained for the harm suffered as a result of unlawful criminal prosecution and detention and must take all measures prescribed by law to

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<sup>57</sup> See Annex 3

<sup>58</sup> TIHR, "Chronicles of Turkmenistan": "Saving the Berdyevs", 30 March 2011, at <http://www.chrono-tm.org/en/?id=1639>

<sup>59</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

indemnify the victim for such harm.” So far, there was no information that families of victims of torture were provided with any compensation.

The already mentioned case of Ms. Ogulsapar Muradova, Radio Free Europe/Radio Liberty’s journalist and human rights activist, who died in custody on 14 September 2006, gives an illustration.

*No compensation whatsoever has been handed to the family members.<sup>60</sup> The authorities’ harassment of her relatives has turned even more serious since she died. Late President Nyazov had ordered that the families of all three journalists should be transferred to an unknown location by mid-October 2006. Ms Muradova’s three children have been cut off from the outside world by disconnecting their landline and mobile telephones. Their home has been under active surveillance by the security services and it has been virtually impossible for them to move freely. They have been fired from their jobs and have no funds.<sup>61</sup>*

The same refers to the case of the Berdiyev family, already mentioned under article 14.

*A sort of rehabilitation has been provided to a young detainee, who was lucky enough to get a good lawyer. Prior to the appointment of the attorney, the young man was mistreated and threatened by police officers. Due to the defence attorney, the detainee was released and placed in a hospital for a lengthy treatment of his kidney problems.<sup>62</sup>*

Furthermore, there is no indication that rulings of the UN Human Rights Committee about the compensation of victims are brought into effect.

*The UN Human Rights Committee adopted the first decision on Turkmenistan on 24 July 2008 in the case Komarovski v Turkmenistan and found that flagrant abuse of justice and failure to investigate and prosecute torture and arbitrary detention had taken place in the aftermath of the alleged 2002 attack on Saparmurad Niazov’s life. According to the committee’s decision, Turkmenistan breached several rights of Mr. Leonid Komarovski, who was one of those accused in alleged attack, including his right to personal liberty and protection from torture. Turkmenistan was requested to provide Mr. Komarovski with an effective remedy and take appropriate steps to prosecute and punish the persons responsible for the violations. Also, Turkmenistan had to provide Mr. Komarovski with adequate reparation, including compensation and a public retraction of a false statement by the government about Komarovski. The committee also highlighted Turkmenistan’s obligation to take measures to prevent similar violations in the future. So far, no information is provided whether the Turkmen government has taken any steps to comply the committee’s ruling.<sup>63</sup>*

## ARTICLE 15

Most of torture cases have been observed during the detention period. Detainees, men and women alike, are often handcuffed behind the chair, kicked, hit and sexually harassed. A report pointed to the fact that a large number of women who had been later placed in a colony for women DZK-8 in Dashgouz were electrocuted into their vagina and/or a sort of metal clothes-pegs placed at the ends of two wires, were fixed on their breasts.

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<sup>60</sup>RFE/RL: „RFE/RL Correspondent Dies In Turkmen Custody”, 14 September 2006, at <http://www.rferl.org/content/article/1071322.html>

<sup>61</sup> Reporters without Borders: “Appeal for support for Muradova’s family now under threat from government”, 22 September 2006, at <http://en.rsf.org/turkmenistan-appeal-for-support-for-muradova-s-22-09-2006,18974.html>

<sup>62</sup> TIHR and the Turkmenistan’s Independent Lawyers Association’s Report: “Turkmenistan Penitentiary Facilities”, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>63</sup> Human Rights Watch (HRW): “Letter to President Gurbanguly Berdymukhamedov regarding human rights concerns in Turkmenistan”, 12 March 2009, at <http://www.hrw.org/ru/news/2009/03/12/letter-president-gurbanguly-berdymukhamedov-regarding-human-rights-concerns-turkmeni>

The most vulnerable persons are those who are placed in temporary holding facilities (IVS), which are under the jurisdiction of police departments. Pursuant to the Criminal Code, police officers have the right to detain a person for 72 hours without any charges. During this time, a detainee is completely isolated and has no access to an attorney. Police, especially those officers who are engaged in criminal investigation, use this period to enforce confessions from a suspect, often to a crime the detainee has never committed.

As already mentioned, many confessions are extorted by the use of force. Many convicts sign whatever document in order to stop mistreatment. Judges do not encourage further investigations and do not doubt submitted evidences.

*Tedzhen Investigatory [Detention] Unit is also known as „press-hut“, as investigators often use invented and false information. In order to gather enough information, the investigators, in addition to use of torture, engage drug-addicts, also called “sheiks”, who receive a doze to do this. They even slander the suspects and invent an uncommitted crime. The verdicts are written in elibdi [Latin script] and in Turkmen language, whether the accused understands it or not.<sup>64</sup>*

According to Article 45 of the Turkmen Constitution “(...) Evidence obtained as a result of mental or physical influence, as well as through other illegal methods, has no legal force.” However, confessions that have been obtained as a result of torture are nevertheless used in court proceedings. A suspect cannot prove that he/she has been tortured, even if marks of beating are obvious:

*In June 2010, in one of the villages in the Lebap velayat, road police stopped and searched the car of mullah Khalil (the name has been changed). Allegedly, they found ammunition for Makarov’s gun within the car of the old man. He was tortured for a week upon his detention, and his family and defense attorney were denied access to him. He was offered a deal in order to get a milder sentence and had to sign an already prepared statement. According to the document, mullah Khalil found these shells near the road and put them in the car boot in order to hand them to police. When the judge asked the defendant whether he pleaded guilty or not, mullah Khalil kept silent and cried. He was sentenced to a five year imprisonment for terrorism and religious extremism. The ammunition disappeared from the evidence file<sup>65</sup>.*

As the case journalist and human rights activist Ogulsapar Muradova shows (see under article 11), forensic experts do not use evidences to make conclusions, and their findings are tailored to fit accusations prepared by authorities.

## ARTICLE 16

### ILL-TREATMENT IN PRISONS

As the above mentioned statistics show, Turkmenistan authorities are unwilling and unable to invest money in the basic infrastructure. Detention facilities and prisons, which harbour the lowest stratum of society, are last on their priority list. The government is unwilling to provide sufficient funds to ensure bearable prison conditions.

An increasing drug abuse and unemployment rate (denied by the authorities), together with an extremely stringent Criminal Code and the “pro-activeness” of Turkmen law-enforcement agencies, have contributed to an overcrowding in detention and prison facilities. This results in a number of inmates 3.3 times higher than the capacity of prisons and colonies. Prisoners serving short sentences for minor offences are placed together with recidivists.

In addition to the fact that facilities are physically run-down, they do not provide proper and sufficient nutrition, bathing and toilet facilities. Health protection is almost inexistent, which

<sup>64</sup> TIHR Report: “Women in Turkmen Prisons”, 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>65</sup> TIHR, “Chronicles of Turkmenistan”: “Low-key fight against “vakhabs”, 24 August 2010, at <http://www.chrono-tm.org/en/?id=1458>

contributes to a fast spread of diseases, such as flu and tuberculosis. Recreational activities are almost inexistent, not only threatening the physical, but also the mental health of inmates. According to the law, inmates have the right to maintain contact with the outside world through visits and correspondence with their relatives. Facts show that inmates' family members are those who maintain the prisons by providing not only for food, linens, toilet and hygiene articles, but also increase prison administrations' salaries by paying bribes.<sup>66</sup>

All the details of the living conditions in jail, including health, nutrition, visits, work etc., resulting from thorough surveys conducted by the submitting NGOs can be found below in appendice 2.

Turkmen penitentiary facilities have therefore not only deprived inmates of liberty, but deny them a basic human dignity.

### ILL TREATMENT IN THE MILITARY

As in many post-Soviet countries, the situation in the Turkmen army is very bad: corruption, mistreatment of subordinates and lack of rules widely spread. Uniforms and footwear are worn out and conscripts can receive a new uniform, only if they pay to officers. During the two years of military service, conscripts become slaves of their commanders, who extort money from recruits on a regular basis. Soldiers are often beaten or even raped, especially those who come from low-income families. Cases of suicides are also quite common. A number of conscripts have been even killed by fellow-soldiers or officers.<sup>67</sup>

*Batyr Polupov served as a soldier his military service in the building of the "Officer's Club" in the centre of Ashgabat, right across from the Presidential Council of Turkmenistan. In order to serve in such a military unit, a person must have really good connections and know right people. Mr. Pulpov had good references, he got well with his fellow-soldiers and officers and was sometimes permitted to visit his family. He was scheduled to be demobilized in two months. He hung himself in a workshop of Officer's club upon end of his leave in September 2010. He had bruises and scratches on the body, but nobody could explain what had happened.*

*An officer from the Ministry of Defense admitted that he was aware about beatings, incitements to suicide, humiliating and abusive treatment especially on the part of officers, hazing, drug abuse which take place in the army, but could not explain that such an incident could happen in the "Officer's Club" in the Turkmen capital. The case got wide publicity, but this did not help to find out what had happened.<sup>68</sup>*

*Military conscript Rashid R. was drafted to the army in November 2010 in the town of Turkmenbashi. His family members buried him on 2 April 2011 in Ashgabat, after he was killed by his fellow conscripts. His family sent him 60 manats (21 US\$) to buy a uniform and his fellow conscripts believe that the money had been the reason why Rashid was killed. Allegedly, senior conscripts had severely battered him to confiscate the money and he was later hanged in order to stage a suicide. According to TIHR's sources, two conscripts and a junior commander were detained after the incident. Like in the case of Batyr Polupov, the culprit could not be found and the case was closed.<sup>69</sup>*

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<sup>66</sup> TIHR, "Chronicles of Turkmenistan": "Prisoners are funded at the expense of their families", 10 July 2008, at <http://www.chrono-tm.org/en/?id=565>

<sup>67</sup> TIHR, "Chronicles of Turkmenistan": "Soldiers die but nobody found guilty", 6 April 2011, at <http://www.chrono-tm.org/en/?id=1645>

<sup>68</sup> TIHR, "Chronicles of Turkmenistan": "Incident in Ashgabat", 16 September 2010, at <http://www.chrono-tm.org/en/?id=1472>

<sup>69</sup> TIHR, "Chronicles of Turkmenistan": "Soldiers die but nobody found guilty", 6 April 2011, at <http://www.chrono-tm.org/en/?id=1645>

## CONCLUSION

In 2008, the Working Group on the Universal Periodic Review of Turkmenistan<sup>70</sup> made a number of recommendations with regard to the above topics. It should be mentioned that the document noted that “The recommendations formulated during the inter-active dialogue have been examined by Turkmenistan and the recommendations listed below enjoy the support of Turkmenistan”. The Turkmen authorities cannot therefore claim that they were not aware of the following recommendations:

- to cooperate with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, (...), the Working Group on Arbitrary Detention, the Special Rapporteur on summary, arbitrary or extrajudicial executions (...) and with OHCHR by responding to the questionnaires and questions sent to Turkmenistan by those mandate-holders;
- to consider ratifying the Optional Protocol to the Convention against Torture and establish its national preventive mechanism according to the Protocol);
- to eliminate the use of torture and other cruel, inhuman degrading treatment or punishment in places of detention;
- to grant regular access to detainees to ICRC, according to the usual terms of the Committee, as well as to international monitors;
- to take steps to ensure greater independence of the judiciary, including through the establishment of a constitutional court and ombudsman system;
- to increase its efforts to eradicate impunity for torture and other ill treatment, and to initiate thorough, impartial and independent investigations into all such allegations, and that alleged perpetrators are brought to justice;

As the report shows, none of these recommendations has been implemented so far.

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<sup>70</sup> Universal Periodic Report (UPR): Report of the Working Group on the Universal Periodic Review – Turkmenistan, at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TM/A\\_HRC\\_10\\_79\\_Turkmenistan\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TM/A_HRC_10_79_Turkmenistan_E.pdf)

## APPENDICES

### APPENDICE 1: List and details of the main detention facilities in Turkmenistan<sup>71</sup>



#### COLONIES

1. **BLK-4** is a special designated colony, with three security levels: minimum security, maximum security and special security levels. It is located in the Balkan velayat, near the village of Akdash. This facility accommodates former law-enforcement officers. The colony's capacity is for 500 inmates;
2. **BLT-5** is a high security prison and has capacity for 400 inmates. It is located in the Akhal velayat, in Ovan-depe. The colony was previously located in the Balkan velayat, but was demolished on 25 June 2008<sup>72</sup>. Part of the inmates was transferred to Ovan-depe and currently one of the colonies located there is temporary designated as BLT-5.
3. **AHK-3** is a maximum security prison and is also located in Ovan-depe. Its estimated capacity is 450 inmates;
4. **AHK-6** is a minimum security prison. It is located in the city of Tedjen in the Akhal velayat. Its estimated capacity is 300 inmates;
5. **MRK-16** is a minimum security prison. It is located in the city of Bairam-ali in the Mary velayat. Its estimated capacity is 800 inmates;
6. **LBK-9** is a minimum security prison. It is located in the city of Turkmenabat in the Lebap velayat. Its estimated capacity is 450 inmates;

<sup>71</sup> Compiled by the Turkmenistan's Independent Lawyers Association

<sup>72</sup> TIHR, „Chronicles of Turkmenistan“: „Demolition of the prison. Problem solved or created??“, 30 June 2008, at <http://www.chrono-tm.org/?id=515>

7. **LBK-10** is a minimum security prison. It is located in the city of Seidi in the Lebap velayat. Its estimated capacity is 450 inmates;

8. **LBK-11** is a maximum-security prison. It is located in the city of Seidi in the Lebap velayat. Its estimated capacity is 700 inmates;

9. **LBK-12** is a minimum security prison. It is located in the Lebap velayat (formerly, the village of Komsomolsky) 6 kilometers from the town of Seidi. Its estimated capacity is 2100 inmates;

10. **DZK-8** is a female colony located in the city of Dashoguz. Its estimated capacity is 700 inmates. This is the only female colony in the country, therefore it accommodates convicts with varying security levels.

11. **MRK-18** is a colony for juvenile offenders. It is located in the city of Bairam-ali in the Mary velayat. Its estimated capacity is 800 inmates. In the Soviet period, the colony was designed to accommodate 500 inmates.

12. **BLHK** is a penal battalion designed for military conscripts serving sentences. It is located in the village of Yanadja, in the Balkan velayat;

13. **MRK-17** is a penal colony settlement. It is located in the city of Mary. Its estimated capacity is 200 inmates;

14. **MRB-15** is an in-patient hospital facility and can render medical services for convicts in custody, if needed. It is located in the city of Mary. Its estimated capacity is 250 inmates.

#### **PRE-TRIAL DETENTION FACILITIES**

1. **BLD-4** operates under the jurisdiction of the Ministry of the Interior and is located in Balkan velayat. Its estimated capacity is 200 inmates;

2. **AHD-2** operates under the jurisdiction of the National Security Ministry and is located in the city of Ashgabat, on the territory of the NSM. Its estimated capacity is 200 inmates;

3. **DZD-7** operates under the jurisdiction of the Ministry of the Interior and is located in the city of Dashoguz. Its estimated capacity is 200 inmates;

4. **AHD-3** operates under the jurisdiction of the Ministry of the Interior and is located in the city of Tedjen. Its estimated capacity is 200 inmates;

5. **MRD-16** operates under the jurisdiction of the Ministry of the Interior and is located in the city of Mary. Its estimated capacity is 200 inmates;

6. **LBD-9** operates under the jurisdiction of the Ministry of the Interior and is located in the city of Turkmenabat. Its estimated capacity is 120 inmates.

***Specially-designated facility BLK-4*** is a minimum security penal colony, which is located in the suburbs of the village of Akdash, 15 kilometers from the city of Turkmenbashi (previously the city of Krasnovodsk). Though it has a capacity for 500 inmates, the correctional institution holds 1732 inmates, a triple number than it had been designed for.

Though described as a “minimum security prison”, it has – in fact – three different security levels (minimum security, maximum security and special security level), which is contrary to the Turkmen legislation.

<b>YEAR 2010</b>	<b>NUMBER OF INMATES: 1732</b>
MINIMUM SECURITY LEVEL	535

MAXIMUM SECURITY LEVEL	847
SPECIAL SECURITY LEVEL	350

In the penal colony are placed former law-enforcement officers from the Ministry of the Interior (including the fire fighting service), the Ministry of Justice (the *Adalat* Ministry), Public Prosecutor's Office, the National Security Ministry and courts. The previous heads of district, municipal and regional administrations as well as some former military officers have been subjected in the last two years to a so-called "rehabilitation and correctional training" there. In addition to the former law enforcement officers held under special security level, individuals are also kept there, for whom special control is required. Those are so-called "untrustworthy political suspects" the journalist N. Gerasimov was one of them<sup>73</sup>.

**LBK-12 facility in the Lebap velayat** (formerly, Chardjou region) has been designed as a minimum security prison and is the largest in the country. It is located in the desert, six kilometres from the town of Seidi (formerly, the village of Komsomolsky). Though designed for 2100 inmates, it currently houses 5700 detainees. Over 500 armed forces personnel and military conscripts, as well as 270 public officials are taking care of the colony's security.

Like in other penitentiary complexes in the country, corruption in the LBK-12 colony is rampant. Inmates' relatives have to submit payments to all levels: the head of the colony and his deputies, department and section heads, senior officers, and finally heads of the units and other staff members. The amount of bribe depends on the requested favour and job title. Bribes often ensure that an inmate receives food his relatives send him and obtains a visit, exactly what he is entitled to, according to the law. Under a minimum security level a person is entitled to four visits per year, e.g. two short-term visits by family members and two long-term visits up to three days

HEAD OF COLONY	100 US\$ and more
DEPUTIES	50 US\$ and more
OTHER PERSONEL	10 US\$ and more

**Women's colony DZK-8 in Dashoguz** was built in 1967 and had been designed for 700 inmates. The colony has seven barracks for accommodation of inmates, bathroom, library, administrative and economic buildings<sup>74</sup>. During the Soviet Union, the colony was relatively small and had one building with a capacity of 250 female prisoners, with occupancy rate not exceeding 40%. Only 10% of the prison population included Turkmen women during Soviet times, while nowadays they amount to 92% of all convicts. Some 80% of women imprisoned in the colony were sentenced for committing drug-related offences. Theft and robbery follow, with 15%, while the rest (5%) includes all other crimes. Difficult financial circumstances are the main reason for their incarceration.<sup>75</sup>

YEAR 2010	NUMBER OF INMATES: 2010
MINIMUM SECURITY LEVEL	780
MAXIMUM SECURITY LEVEL	1020
HIGH-SECURITY LEVEL	135
ISOLATION SECURITY LEVEL	75

Ms. Khatydja Khodjayeva, who worked in a velayat's police department, was appointed as a head of the women's prison in 2005, after a reshuffle of the prison administration. The

<sup>73</sup> CentrAziya: "Туркменистан: спецслужбы требуют от журналиста и "агента иностранных разведок" Н.Герасимова покинуть страну", 28 January 2005, at <http://www.centrasia.ru/newsA.php?st=1106860260>

<sup>74</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>75</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: „Turkmenistan's Penitentiary Facilities“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>



reshuffle was triggered by numerous complaints about violence and mistreatment to which female inmates had been exposed to. Another step was to replace all male with female staff.<sup>76</sup> Ms. Khodjayeva succeeded to erase the drug and alcohol abuse, extortion of bribes by prison staff from inmates, theft and sale of food from canteen and the inner hierarchy among the inmates. Inmates were allowed to receive one parcel per month and a package (less than 25 kilograms) every 36 days.<sup>77</sup> Anyone who possessed a forbidden item, be it clothes, make-up or food, was put in a punitive isolation ward for 15 days.<sup>78</sup> Such strict rules triggered the first riot on 16 October 2006, prior to the annual amnesty, at the end of the Holy Month Ramazan.<sup>79</sup> The second riot broke out on 11 November 2006 and a day later, Ms. Khodjayeva was evacuated and a new prison governor was appointed.

## APPENDICE 2: Details of conditions in the detention facilities

### JUVENILE INMATES

Juvenile delinquency is on the rise in the country: most school children, whose family member(s) left the country to earn money abroad, have become a big problem for society. The number of suicides among young people is on the rise and the reasons for this vary: either because of economic problems or because of pregnancy caused by rape. Unfortunately, these disturbing cases are not isolated occurrences but a general trend. Since mid-2009, many Turkmen schools are inspected by commissions comprised of representatives of law enforcement agencies, the Ministry of Education, and local authorities in order to identify number of students whose parents have left the country in search of work.<sup>80</sup>

Juveniles are often placed with adult detainees (detention facility *BLD-4*) and inmates, especially juvenile females, as there is no prison for juvenile women. In addition to being exposed to violence of the prison staff and third persons, they often experience “visits” of the Special Task Force Squadrons that enter penitentiary facilities. They are not spared from violence of adult inmates.<sup>81</sup>

Juvenile girls who have predominately committed illegal drug-trafficking offences and thefts of personal property, are accommodated in the women’s colony DZK-8 in Dashoguz. In 1989, the colony accommodated only seven girls, while in 2011 their number has risen to 215.<sup>82</sup>

### LIVING CONDITIONS

Comparing to other colonies, the BLK-4 colony is relatively new and was built in 1996, with a barrack for inmates. These were involved in construction works of further buildings within the correctional institution.

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<sup>76</sup> TIHR, “Chronicles of Turkmenistan”: “Riot in the female colony”, 16 October 2006, at <http://www.chrono-tm.org/en/?id=288>

<sup>77</sup> TIHR, “Chronicles of Turkmenistan”: “A new riot of female inmates”, 25 November 2006, at <http://www.chrono-tm.org/en/?id=298>

<sup>78</sup> TIHR, “Chronicles of Turkmenistan”: “A new riot of female inmates”, 25 November 2006, at <http://www.chrono-tm.org/en/?id=298>

<sup>79</sup> TIHR, “Chronicles of Turkmenistan”: “Riot in the female colony”, 16 October 2006, at <http://www.chrono-tm.org/en/?id=288>

<sup>80</sup> TIHR, “Chronicles of Turkmenistan”: “Abandoned by parents”, 8 May 2009, at <http://www.chrono-tm.org/en/?id=912>

<sup>81</sup> TIHR and the Turkmenistan’s Independent Lawyers Association’s Report: „*Turkmenistan’s Penitentiary Facilities*“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>82</sup> TIHR and the Turkmenistan’s Independent Lawyers Association’s Report: „*Turkmenistan’s Penitentiary Facilities*“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

The barracks in the LBK-12 colony are located 100 meters away from each other, with a capacity for 100 convicts each. Dormitories are equipped with iron bunk beds. Due to the location within a desert, the complex is exposed to extreme temperatures:  $-20^{\circ}$  C in the winter and up to  $+50^{\circ}$  C in the summer.<sup>83</sup>

New inmates in the colony DZK-8 in Dashoguz are quarantined and must stand in line for ten hours before being admitted in the facility. They are denied to sit down, drink, eat or go to the toilet. All are searched, including gynaecological examinations, in order to prevent smuggling of forbidden items. Before bringing them to a library, where the inmates are registered and afterwards brought to quarantine barracks, the guards often show them punishment ward as a warning measure. Up to 40 women are held in 25 m<sup>2</sup> old and dirty quarantine barrack for more than a week, where they undergo different medical tests. Many of them suffer TBC, syphilis, epilepsy and mental disorders.<sup>84</sup>

In spring and summer, most of women spend time and even sleep outside the barracks, due to threefold and even fourfold overcrowding. Many sleep on the floor, beneath the existing beds or even in a mortuary. In order to get a bed, they must bribe guards with 14 US\$.<sup>85</sup> Women who are accused for terrorism are separated by a fence and are entitled to a 15-minute-walk only in a small area, two meters away from their building. They have to clean wool, full of garbage and fine dust, which penetrates their lungs.<sup>86</sup>

Due to the lack of space in barracks, prisoners in Bajramali prison are forced to live in military tents.<sup>87</sup> Many inmates give even bribes to prison staff to avoid living together with hardened criminals and repeated offenders.<sup>88</sup> Even in overcrowded pre-trial detention facilities, a detainee can obtain a separate cell, but he must pay a bribe from 500 to several thousand US dollars.<sup>89</sup>

## NUTRITION

The nutrition in colonies is not only scarce, but it also happens that upon standing in a long queue inmates end empty handed. Most of the prisoners are dependent on their relatives, who provide them with food: bread, vegetable oil, fruit, but also prepared food that can be stored for a longer time.

The majority of convicts in the BLK-4 colony suffer from malnutrition, as not all of their relatives have sufficient money to provide them with food.

*Former deputy prosecutor of the Lebap velayat T. Dzhambaev, who was under high security level, lost 21 kilos due to scarce food. He believes that the release from prison saved him from starving to death.<sup>90</sup>*

*In the front of the canteen of the women's colony DZK-8 in Dashoguz inmates regularly stay in a long queue, waiting to get food. Even a portion of simple soup is not sufficient*

<sup>83</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: „Turkmenistan's Penitentiary Facilities“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>84</sup> TIHR Report: “Women in Turkmen Prisons”, 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>85</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: „Turkmenistan's Penitentiary Facilities“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>86</sup> TIHR, “Chronicles of Turkmenistan”: “Replacement of prison staff brought no improvements for female inmates”, 24 July 2005, at <http://www.chrono-tm.org/en/?id=148>

<sup>87</sup> TIHR, “Chronicles of Turkmenistan”: “On prisons again”, 25 March 2010, at <http://www.chrono-tm.org/en/?id=1323>

<sup>88</sup> TIHR, “Chronicles of Turkmenistan”: “On prisons again”, 25 March 2010, at <http://www.chrono-tm.org/en/?id=1323>

<sup>89</sup> TIHR, “Chronicles of Turkmenistan”: “On prisons again”, 25 March 2010, at <http://www.chrono-tm.org/en/?id=1323>

<sup>90</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: „Turkmenistan's Penitentiary Facilities“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

*for all the inmates, so many women remain hungry and fighting among them occurs on a regular basis.*<sup>91</sup>

#### HEALTH AND SANITARY CONDITIONS

Inmates diagnosed with tuberculosis and skin diseases are kept together with healthy inmates. Prison administration does not even try to stop the spreading of diseases. Inmates have no other option but to receive medical supply from their family members.<sup>92</sup> Due to the disastrous conditions in prisons and colonies, many convicts either die there, or contract serious illnesses and become even disabled.<sup>93</sup> According to the TIHR sources, AIDS and HIV are widely spread, as drug users among inmates have quite easy access to drugs and syringes within many prisons.<sup>94</sup>

The BLK-4 colony's administration neither has any funds nor makes any efforts to find some additional ones in order to provide all convicts with necessary items. The administration sticks to the official capacity of the colony, e.g. 500 inmates. Not all inmates are able to buy hygiene items and usually depend on relatives' supplies.

The colony DZK-8 in Dashoguz holds triple number of prisoners, with 12-14 female prisoners living in a cell. They sleep in three shifts, due to the cells' overcrowding. Cells contain an open toilet and a wash basin, and women must stand in line to use the toilet. Once a week women can take a shower and clean their laundry. Each barrack has not more than 30 minutes to undress, shower, wash hair and dress again. If an inmate wants to take a shower more than once a week, she has to pay 1 US\$ to a bath supervisor, who is a convict herself.<sup>95</sup> Personal hygiene products are also in short supply. In addition to various (infectious) diseases, tuberculosis is not a rare phenomenon.<sup>96</sup> Inmates with mental disorders live with healthy inmates and this often causes tension between women.<sup>97</sup>

The colony has no gynaecologist. Pregnant women are brought to the city hospital only if they cannot give a birth on their own. Many women used to die in the prison, because nobody hurried with their transportation to the hospital.<sup>98</sup> After childbirth, mother and child are accommodated together in specially-equipped rooms, until the child turns 12 months. In these two specially-designated cells, the conditions and nutrition are better than in other cells, even though they do not meet generally accepted standards. Medical care for women with children is conventional, with two paramedics and no gynaecologists.<sup>99</sup> Children are given to the relatives, and orphan children are sent to the Dashgouz orphanage. Many of these pregnancies are caused by involuntary sexual intercourse with prison guards. But some women have even voluntarily sex with guards, hoping for privileges.<sup>100</sup>

Drug abuse is a serious problem, not only among the general population, but also among prisoners. Though Turkmen authorities have declared war on drugs [consumption], the high

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<sup>91</sup> TIHR, "Chronicles of Turkmenistan": "Replacement of prison staff brought no improvements for female inmates", 24 July 2005, at <http://www.chrono-tm.org/en/?id=148>

<sup>92</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>93</sup> TIHR, "Chronicles of Turkmenistan": "Replacement of prison staff brought no improvements for female inmates", 24 July 2005, at <http://www.chrono-tm.org/en/?id=148>

<sup>94</sup> TIHR, "Chronicles of Turkmenistan": "On prisons again", 25 March 2010, at <http://www.chrono-tm.org/en/?id=1323>

<sup>95</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>96</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan's Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>97</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>98</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>99</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: "Turkmenistan's Penitentiary Facilities", February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>100</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

corruption among prison staff does not decrease the plague. Ms. Khatidja Khodjayeva was who managed to erase consumption of drugs within women's colony DZK-8 in Dashoguz but riots ended her governing period.

The overcrowding of penal institutions, colonies and detention facilities also increases the mortality rate among prisoners. Like other Turkmen colonies, also the BLK-4 has a high death rate. In 2009 and 2010, 13 people died in BLK-4 colony: seven convicts died as a result of fire, while six inmates died of tuberculosis. The annual mortality rate in the women's colony DZK-8 in Dashoguz totals 15 persons on average.

### WORK

Although most inmates in the LBK-12 colony wish to get a job within the plant "Dinamo", only a bribe can ensure their work in a prison craft shop. The equipment for the shop had been transferred from the demolished colony BLK-5.

The women's colony DZK-8 in Dashoguz incorporates a sewing factory, which produces different kind of textile products, such as: shoulder-straps and bedding for soldiers, carpets, embroideries. Inmates work in vegetable patches and take care of animals. In order to get work as a cleaner, janitor or cafeteria worker, inmates must pay a bribe. Most of inmates' salary is taken by the prison administration and only a small amount is given to an inmate upon leaving the prison.<sup>101</sup>

### LEISURE

Sports grounds and other recreation facilities are not available. Books in prison libraries are scarce. During former president Niyazov's time, some prison administration, as is the case in the prison MRK-16, created a *Ruhnama corner*, displaying plenty of *Ruhnama* copies written by the late president Niyazov. Many inmates used to borrow the book to show exemplary behaviour hoping to be added to the list of pardon. Since the death of Niyazov, not much interest has been shown to the mentioned book.

### VISITS

The shortage of premises within the women's colony DZK-8 in Dashoguz, even after paying a bribe to prison staff, impedes regular visits to which inmates are entitled to. Only five meeting rooms (two rooms are about 3 m<sup>2</sup>, other three are 2,5 m<sup>2</sup>) are available for prisoners and their relatives to meet. The visits therefore often take place in corridors, kitchens, storage rooms and narrow aisles near a toilet. Visitors often sleep on the ground, with two families being placed in one room.<sup>102</sup>

### AMNESTY OF INMATES

Under former president S. Niyazov, between 8 and 10 thousand persons were amnestied on an annual basis. Those on the so-called "black list" of the General Public Prosecutor cannot hope for an amnesty. The "list" contains names of intelligentsia representatives and all those opposing official policies. Most of them have been sentenced on criminal charges.

On 18 February 2011, President G. Berdymukhammedov signed a decree pardoning prisoners as an act to honour the National Flag Day. The number of pardoned prisoners has not been made public yet.<sup>103</sup> Though the Amnesty Acts has become more regular than before, the number of persons being pardoned every year has dropped almost twofold.<sup>104</sup>

<sup>101</sup> Norwegian Helsinki Committee: "TURKMENISTAN: Dashoguz women's prison colony", 2011, at <http://nhc.no/?module=Files&action=File.getFile&ID=870>

<sup>102</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>103</sup> Central Asia Online: "Turkmenistan pardons prisoners in honour of Flag Day", 19 February 2011, at [http://centralasiaonline.com/cocoon/caii/xhtml/en\\_GB/features/caii/newsbriefs/2011/02/19/newsbrief-06](http://centralasiaonline.com/cocoon/caii/xhtml/en_GB/features/caii/newsbriefs/2011/02/19/newsbrief-06)

<sup>104</sup> TIHR, "Chronicles of Turkmenistan": "Turkmenistan toughens the fight against drug dealers", 3 April 2009, at <http://www.chrono-tm.org/en/?id=1037>

Even the inmates who do not fall under the Amnesty Act look forward to the amnesty, as this decreases overcrowding within prisons.<sup>105</sup>

#### ABUSE BY PRISON STAFF

In July 2005, the late president Niyazov paid attention, for the first time ever, to the violent and inhuman treatment of the convicted women and to the problem of corruption within the women's colony DZK-8 in Dashoguz. He ordered to identify and to penalize those responsible and to replace the male by female staff. Several colony staff members were fired and two prison supervisors were punished for sexual abuse of juvenile delinquents. Despite of "gender reshuffle", soldiers are still present as escorts and safeguards.<sup>106</sup>

#### MEDICAL CORRECTIONAL FACILITIES

The country has two occupational therapy rehabilitation centres, which are relicts of the Soviet penal system and actually serve as penitentiary facilities. They are designed to accommodate those who are prescribed to undergo compulsory alcohol and substance abuse rehabilitation, pursuant to the court's decision. Forced labour is the principle method to treat patients' addictions.

One of the facilities is located near the city of Tedjen (the Akhal velayat), while the other is situated in Karabogaz village (Balkan velayat). No information is available on the official capacity of these two institutions. According to the official information<sup>107</sup> and court rulings from 2007, 4010 persons have undergone compulsory rehabilitation and medical treatment program.<sup>108</sup>

*On 3 January 2004, Mr. Gurbandurdy Durdykulyev sent a letter to President Saparmurad Niyazov and the governor of the Balkan region, urging them to authorize a two-day-long demonstration on the main square of Balkanabad. The demonstration, which was planned for 18 and 19 February, was to coincide with the late President's birthday.*

*Mr. Durdykulyev, who had already criticized Niyazov's policies before the mentioned letter was written, was forcibly confined in a psychiatric hospital on 13 February 2004 in Balkanabad. Later on, he was transferred to another psychiatric hospital in Garashsyzyk district (eastern Lebap region). He was declared mentally ill and diagnosed with wild paranoia in an aggressive form. However, staff of the hospital in Garashsyzyk district told Durdykulyev's family members that they were forced to issue such diagnose. He was released in 2006 upon the urge of 54 US senators and Congress to the late Turkmen president Niyazov. He was acknowledged as prisoner of conscience by Amnesty International<sup>109</sup>.*

*Mr. Sazak Durdymuradov, a history teacher, had been working for two months as a nonpaid contributor to Radio Azatlyk the Radio Free Europe/Radio Liberty (RFE/RL) Turkmen broadcasts when secret police seized him from his home on 20 June 2008. He was severely beaten and electrocuted after refusing to sign a letter stating that he will never again work for RFE/RL, what he refused to do. Later on, he was transferred to a psychiatric hospital in the eastern region of Lebap, a facility notorious for holding critics of the Turkmen regime, known*

<sup>105</sup> TIHR Report: "Women in Turkmen Prisons", 25 February 2007, at <http://www.chrono-tm.org/en/?id=318>

<sup>106</sup> TIHR, "Chronicles of Turkmenistan": "Replacement of prison staff brought no improvements for female inmates", 24 July 2005, at <http://www.chrono-tm.org/en/?id=148>

<sup>107</sup> This data has been published in brochures, relevant to the topic, during one of international conferences and seminars hosted by the Turkmenistan government. These brochures have a small circulation and are not accessible to the public. The quoted number of patients from the report is taken from one of such brochures and the TIHR/FIDH cannot assure that this information is reliable.

<sup>108</sup> TIHR and the Turkmenistan's Independent Lawyers Association's Report: „Turkmenistan's Penitentiary Facilities“, February 2010, at <http://www.chrono-tm.org/uploaded/1266867677.pdf>

<sup>109</sup> Amnesty International (AI): "Prisoner of conscience Gurbandurdy Durdykuliev forcibly confined in psychiatric hospital", 26 November 2004, at <http://www.amnesty.org/en/library/asset/EUR61/008/2004/en/e94e6fd7-d54e-11dd-8a23-d58a49c0d652/eur610082004en.html>

also as "Turkmen Gulag". He was released two weeks later amid strong international pressure on 4 July 2008.<sup>110</sup>

Mr. Amangelen Shapudakov, an 80-year-old civic activist and a stringer of RFE/RL, was summoned on 7 March 2011 to the local police department in his home district of Magtymguly (southwestern Turkmenistan). According to RFE/RL, he has not been seen since. Although a spokesperson of the Ministry of Interior denied on 29 March 2011 that the Ministry has any information about the case, an official at a psychiatric facility in the regional capital of Balkanabat confirmed that Mr. Shapudakov was committed in the facility since mid-March. Despite of contradictory statements of two police officers at the end of March, Magtymguly police officers have also confirmed that he was institutionalized. Although Mr. Shapudakov suffers from diabetes and hypertension, no information is provided that he has had any psychological disorders. Mr. Shapudakov was expected to stay hospitalized until mid-April.

Mr. Shapudakov was harassed by local authorities due to his criticism on corruption in Magtymguly district. Police even posted his photos in public places suggesting he was a criminal. After appealing to international organizations and foreign embassies that he had been put under pressure by Turkmen authorities, Mr. Shapudakov was temporarily detained on 5 February 2011 in Ashgabat's Kopetdag district police department. The Organization for Security and Cooperation in Europe's (OSCE) office in Ashgabat refused any comment on Mr. Shapudakov case. After the case of Mr. Sazak Durdymuradov, this is the second time that Turkmen officials have forcibly placed an RFE/RL contributor to a psychiatric facility.<sup>111112</sup>

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<sup>110</sup> Radio Free Europe/Radio Liberty (RFE/RL): "RFE/RL Turkmen Contributor Released From Detention", 5 July 2008, at

[http://www.rferl.org/content/RFERL\\_Turkmen\\_Contributor\\_Released\\_From\\_Detention\\_/1181825.html](http://www.rferl.org/content/RFERL_Turkmen_Contributor_Released_From_Detention_/1181825.html)

<sup>111</sup> RFE/RL: "Turkmen Activist Forcibly Committed To Psychiatric Care", 31 March 2011, at

[http://www.rferl.org/content/turkmen\\_activist\\_forcibly\\_committed\\_psychiatric\\_care/3542597.html](http://www.rferl.org/content/turkmen_activist_forcibly_committed_psychiatric_care/3542597.html)

<sup>112</sup> Stifting the Karakum, Independent News from Turkmenistan: "Turkmen RFE Contributor Forcibly Detained in Psychiatric Hospital", 1 April 2011, at <http://www.eurasianet.org/node/63212>