



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

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**Committee against Torture**

**Forty-sixth session**

**Summary record of the first part (public)\* of the 994th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 17 May 2011, at 10 a.m.

*Chairperson:* Mr. Grossman

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\* No summary record was prepared for the second part (closed) of the meeting.

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

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

*Initial report of Turkmenistan (CAT/C/TKM/1; HRI/CORE/TKM/2009)*

1. *At the invitation of the Chairperson, the members of the delegation of Turkmenistan took places at the Committee table.*

2. **Mr. Serdarov** (Turkmenistan) said that the President of the Republic had recently opened a Permanent Mission of Turkmenistan to the United Nations Office at Geneva with a view to strengthening cooperation between his country and international organizations involved in the promotion and protection of human rights, and that the Ambassador who served as head of the Mission was a member of the delegation.

3. The Turkmen Government had launched a large-scale reform process and had set as one of its priorities the harmonization of its domestic legislation with generally recognized norms of international law. One component of a programme approved by the President of the Republic focused on the incorporation of international norms into domestic legislation. The importance that Turkmenistan attached to ensuring respect for its international obligations was reflected in the adoption in September 2008 of a new Constitution, which included the core provisions of international human rights instruments, including the Convention. Article 6 of the Constitution enshrined in the country's internal legal order the primacy of universally recognized norms of international law which, together with international agreements concluded by Turkmenistan, were regarded as constituting an integral part of Turkmen law.

4. With a view to guaranteeing enjoyment of the human rights and freedoms enshrined in the Constitution and the application of international human rights norms, the President of Turkmenistan had established by decree, on 19 February 2007, a State Commission to consider citizens' complaints regarding the activities of the law enforcement agencies. Furthermore, as part of the reform process, a series of laws guaranteeing the protection of human rights had been enacted in 2009. They included the Courts of Law Act, the Office of the Procurator Act and the Code of Criminal Procedure. In 2010, the Bar and Legal Profession Act and the new Criminal Code had been adopted. Criminal legislation had been rendered less harsh: the duration of the maximum penalties applicable to serious offences had been reduced and the available range of alternative penalties had been expanded. In the same year, President Berdymukhammedov had approved a decree establishing a commission to oversee the functioning of the bodies responsible for the enforcement of penalties and the reintegration of prisoners into society. The establishment of the commission facilitated the access of civil society to the country's prisons. In March 2011 the Parliament had adopted a new Prison Code that had been drafted in conformity with instruments of the United Nations and the Organization for Security and Cooperation in Europe concerning the enforcement of penalties and the treatment, rehabilitation and reintegration of detainees.

5. One of Turkmenistan's foreign policy priorities consisted in cooperating with international organizations, particularly the United Nations. To that end, the Turkmen Government had engaged in a frank and constructive dialogue with all the human rights treaty bodies. It was currently implementing a project covering the period 2009–2012 with the European Union and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The aim of the project was to build up national capacities in the area of human rights and to promote collaboration between Turkmenistan and international human rights bodies and procedures. As part of the project, a study visit and three seminars had been organized in 2010 and 2011 prior to the Committee's consideration of the initial report

of Turkmenistan. The working group set up for the purpose had studied the Committee's working methods, its procedure for the consideration of initial reports and a list of basic themes provided by the Committee's secretariat.

6. In May 2011 a human rights information centre had been established at the National Institute for Democracy and Human Rights in the Office of the President of Turkmenistan. The centre would promote human rights by organizing activities conducive to enhanced awareness of international instruments, including the Convention against Torture. The programme activities included the establishment and administration of a human rights database that would be accessible to the public, the opening of a human rights library, the constitution of a legal database and the organization of information meetings, lectures and round tables on human rights.

7. Turkmenistan's initial report had been prepared in accordance with the Committee's Guidelines on the Form and Content of Initial Reports (CAT/C/4/Rev.3). The authors had used information received from the relevant ministries and public administration services as well as from civil society organizations. The draft had been submitted to all stakeholders so that they could offer comments and suggestions. Their contributions had been taken into account in preparing the final version of the report.

8. **Ms. Gaer** (First Country Rapporteur) welcomed the State party's initial report, which had been submitted, however, with a nine-year delay. She also commended the wide range of information presented in the core document (HRI/CORE/TKM/2009). Noting that Turkmenistan had not yet made the declarations under articles 21 and 22 of the Convention or acceded to the Optional Protocol to the Convention, she asked whether it had any plans in that regard.

9. While the report provided a detailed overview of the laws in force in Turkmenistan, it contained no information that would enable the Committee to form an idea of how the Convention was being implemented in practice in the State party. She drew the delegation's attention in that connection to the Committee's general comment No. 2 concerning the application of article 2 of the Convention (CAT/C/GC/2), which stated that the Committee consistently recommended that States parties provide disaggregated data in their reports so that it could adequately evaluate the implementation of the Convention. Such data permitted States parties and the Committee to identify and take steps to remedy discriminatory treatment that might otherwise go unnoticed.

10. A number of States that had made recommendations to Turkmenistan after the universal periodic review in 2008 (A/HRC/10/79) had urged it to cooperate more closely with the United Nations human rights procedures, including the Special Rapporteur on the question of torture. Turkmenistan had replied that it would look into the possibility of acting on the recommendations to authorize the International Committee of the Red Cross to visit places of detention and to establish a national human rights institution based on the Paris Principles, but it had failed to provide any information regarding their implementation. The Committee would be interested in hearing whether the Turkmen authorities had taken steps to that end since the universal periodic review, for instance whether they intended to invite the Special Rapporteur on the question of torture to visit the country.

11. According to information from United Nations bodies and NGOs, human rights defenders were subjected to persecution. In September 2010 President Berdymukhammedov had asked the Ministry of the Interior to launch a ruthless struggle against persons who made defamatory statements about the regime. The instructions had been issued after the broadcasting of an interview with Farid Tukhbatullin, a human rights defender living in exile in Austria. His website had been blocked by computer hackers and he reportedly had well-founded reasons to fear for his safety. She asked the Turkmen

delegation to explain what was meant by a “ruthless struggle” and to reassure the Committee that no retaliatory action would be taken against Mr. Tukhbatullin or any other human rights defender who provided information to the Committee or to other United Nations bodies.

12. With regard to article 2 of the Convention, she noted that judges were appointed and removed from office pursuant to a decision by the President of the Republic, which raised the question of their independence, and that, according to information received from NGOs, guarantees of a fair trial were often not respected by the courts. She asked the delegation to provide details of the case of *Ilmurad Nurliev*, a Russian-speaking Protestant clergyman who had been sentenced in October 2010 to four years in prison for fraud. He had not been given a fair trial because many of the charges laid against him had been manifestly unfounded: for example, one of the alleged victims had been in prison at the time of the acts attributed to Mr. Nurliev; the proceedings had been conducted in Turkmen, a language that he did not understand; the judge had refused to hear the witnesses for the defence; and Mr. Nurliev had not received a copy of the judgement in time to file an appeal. She wished to know whether the allegations of a violation of the right to a fair trial in the case in question had been examined and, if so, by which body, and whether steps had been taken to remedy the shortcomings reported by NGOs.

13. According to article 26 of the Criminal Code, everybody was entitled to legal aid in the context of criminal proceedings. The Committee wished to know how many lawyers were active in Turkmenistan and what kind of training they received. It would also like to know whether there was an independent bar association in the country. According to information received by the Committee, officially assigned lawyers refused to plead in cases concerning acts of torture or ill-treatment for fear of reprisals. She invited the delegation to comment on that allegation. She also wished to know what action had been taken by the State party on the Human Rights Committee’s conclusions and recommendations in the case of *Leonid Komarovski* (communication No. 1450/2006).

14. Independent national human rights institutions played an important role in preventing torture. The Committee wished to know whether the National Institute for Democracy and Human Rights, which had been mentioned several times in the report, was authorized to investigate allegations of torture and ill-treatment and, if so, what action was taken on its findings. Why had the Berdyev couple, who had been trying for many years to obtain compensation for the acts of torture and ill-treatment to which they had been subjected during their detention in 1998, been arrested on 21 April 2011 by 10 national security officers one day before a delegation from the European Parliament was due to visit the country? What action had been taken on the various complaints they had filed over the years concerning acts of torture and ill-treatment? Details of the circumstances in which they had been arrested would also be welcome. Had they been allowed to confer with a lawyer and to be examined by a physician of their choice? More generally, the Committee would like to know what measures had been taken by the President of the Republic to ensure that the perpetrators of acts of torture and ill-treatment were prosecuted and tried and that the victims were compensated.

15. The Committee had been informed that human rights defenders had been attacked and that their relatives were unable to travel freely within the country. Was that information correct? She invited the delegation to comment on the three human rights activists (Ogulsapar Muradova, Annakurban Amanklychev and Sapardurdy Khadzhiev) who had been arrested in mid-June 2006 on account of their links with the Turkmenistan Helsinki Foundation (THF), a human rights NGO, and charged with engaging in “subversive activities” and with planning a revolution. After a trial that had lasted for less than two hours, they had been sentenced to prison terms of between six and seven years for the “acquisition, possession and sale of ammunition and firearms”. The family of Ogulsapar

Muradova had been informed on 14 September 2006 that she had died in prison. The Committee wished to know whether her death, which could have been due to acts of torture and ill-treatment, had given rise to an investigation.

16. The report stated that all detainees had access to a lawyer, but it was unclear whether they were entitled to consult a physician of their choice or whether they could contact a relative. She invited the delegation to respond to those queries.

17. Several cases of disappearance had been brought to the attention of the Committee, including that of Boris Chikmouradov, the former Turkmen Minister for Foreign Affairs, who had been imprisoned in 2007 with the approval of the President of Turkmenistan. Did the delegation know whether he was still alive and, if so, could it inform the Committee of his current whereabouts? The fate of several people who had been arrested after the events of 25 November 2002 was also unknown. What information could the delegation provide in that connection?

18. With regard to the definition of torture in domestic law, paragraph 92 of the report stated that the Criminal Code contained no provisions specifically providing for liability for torture. She asked whether the recently adopted legislative measures had changed that situation. The Constitution prohibited torture but failed to define it, and article 113 of the Criminal Code provided for liability for physical or mental suffering caused by systematic beatings or other violent acts, including torture. Hence most of the constituent elements of torture set out in article 1 of the Convention were not covered by Turkmen legislation. There was no provision, for instance, stating that torture consisted of the deliberate infliction of severe suffering by a public official or other person acting in an official capacity. Did the delegation consider that Turkmenistan had taken all necessary steps to give effect to article 1 of the Convention?

19. According to paragraph 2 of the report, if an international agreement concluded by Turkmenistan contained provisions that were inconsistent with domestic law, the provisions of the international agreement were applied. The Committee wished to know whether the Turkmen courts had already directly applied the Convention against Torture. She also asked the Turkmen delegation to indicate whether the offences mentioned in articles 113 (torture), 107 (intentionally causing serious bodily harm) and 108 (intentionally causing moderate bodily harm) of the Criminal Code were subject to a statute of limitations.

20. With regard to the application of article 3 of the Convention, she asked whether Turkmenistan had expelled or extradited anybody in recent years and, if so, to which country. Noting that the President of Turkmenistan was directly responsible for granting asylum, she enquired about the number of cases in which he had effectively granted a right to asylum. As responsibility in that regard should lie with the judicial authorities, she asked whether any such measure was envisaged. The Committee also wished to know whether the courts had ever invoked article 3 of the Convention to reject the expulsion or extradition of a person to a country where he or she risked being subjected to torture. With regard to article 5 of the Convention, she asked whether the Turkmen courts had declared their competence to hear cases pertaining to acts of torture perpetrated by a foreigner or committed outside the national territory, and whether Turkmenistan had ever extradited Turkmen nationals who had been charged with the crime of torture.

21. **The Chairperson**, speaking as Second Country Rapporteur for Turkmenistan, noted that the Constitution and the Criminal Code mentioned torture but failed to define it. He wished to know whether Turkmenistan intended to incorporate the definition of torture set out in article 1 of the Convention against Torture in its domestic legislation, which would be the best way, in his view, of solving the problems raised by the legislation currently in force. It was important for the delegation to reply in detail to all the allegations of torture and ill-treatment brought to the attention of the Committee so that the latter could assess

Turkmenistan's compliance with its obligations under the Convention. For instance, it should state whether the death in detention of Ogulsapar Muradova, a Turkmen human rights activist, had given rise to an investigation. On a more general point, he enquired about the rights of persons deprived of their liberty to have access in practice to a lawyer and a physician of their choice. Did the Turkmen Code of Criminal Procedure permit the filing of a writ of habeas corpus?

22. The Constitution apparently provided for derogations from the principle of the prohibition of torture in states of emergency. The delegation should know that such derogations would constitute a breach of article 2, paragraph 2, of the Convention. Did the Constitution or the law clearly state the principle of the absolute prohibition of torture, including in exceptional circumstances? With regard to article 3 of the Convention, he asked the delegation whether Turkmenistan had ever relied on diplomatic assurances to facilitate the return, expulsion or extradition of a person to a country where he or she would risk being subjected to torture.

23. Reverting to the question of the criminalization of torture in domestic law, he noted that article 113 of the Criminal Code referred to physical or mental suffering caused by "systematic" beatings, a concept that was not contained in the Convention. An act of torture could quite conceivably consist of an isolated act and, contrary to the implication of the Turkmen legal provision, it did not have to be perpetrated in the context of a more generalized pattern of torture to be considered as such. Article 107 of the Criminal Code defined the crime of intentionally causing serious bodily harm "that endanger[ed] life". However, acts might very well constitute torture without endangering the victim's life. Once again, the Committee urged Turkmenistan to take the necessary steps to incorporate the definition of torture set out in article 1 of the Convention in its domestic legislation.

24. According to information brought to the attention of the Committee by Amnesty International, women detained for minor offences had been raped by officials of the Ministry of the Interior in Ashgabat. The Committee wished to know whether legal action had been taken against the alleged perpetrators, whether they had been convicted and whether the victims had been compensated.

25. With regard to the prohibition of torture (art. 10), he said that the Committee would appreciate receiving copies of the documents used to train law enforcement personnel. He also requested information about the frequency of such training courses and asked whether they were compulsory, whether there were any indicators of their impact and whether non-State actors were involved, for instance civil-society participants or academics, whose contribution would enhance the practical dimensions of the training provided.

26. He asked whether, as recommended by several States in the context of the Universal Periodic Review, the State party intended to authorize inspections of places of detention by independent organizations with a view, inter alia, to guaranteeing respect for article 12 of the Code of Criminal Procedure concerning the rights of persons involved in criminal proceedings. He also wished to know whether there was a body with which complaints of abuses committed against detainees that had not been prosecuted by the State could be filed.

27. With regard to article 12 of the Convention, he asked whether an impartial investigation had been conducted into the death of the journalist Ogulsapar Muradova in police custody in 2006. If an investigation had taken place, he wished to be informed of the outcome and of the manner in which it had been conducted, including the number of persons questioned and the steps taken to protect those who had participated in the proceedings.

28. With regard to article 13 of the Convention, he noted that Turkmen legislation authorized citizens to submit statements and complaints concerning State bodies. The

Committee wished to know whether complaints concerning torture or ill-treatment had been registered by the State party and, if so, how many such complaints had been received during the period under review and how many had led to an inquiry and the determination of individual responsibility.

29. He also asked whether the State party intended to make the filming of interrogations mandatory, a practice that had been introduced in a large number of countries. It would guarantee compliance, for instance, with article 45 of the Constitution, which stipulated that suspects could not be forced to give evidence or testimony against themselves or their close relatives and that evidence obtained through psychological or physical pressure or other unlawful methods had no legal force. How many investigations had been undertaken into the conduct of State officials who had allegedly obtained confessions through torture and how many had given rise to criminal proceedings?

30. Referring to reports that the total number of detainees in prisons and penal colonies was equivalent to more than three times the capacity of the facilities concerned, he asked whether the State party had drawn up an action plan to remedy prison overcrowding and, if so, what were its main provisions. Lastly, referring to reports that there were currently more lawyers in Turkmenistan than in the past, he enquired about the course to be pursued in order to become a lawyer and the total number of persons currently practising the profession.

31. **Ms. Belmir** requested clarifications regarding the career path of judges, their independence vis-à-vis other members of the judiciary and the degree to which they could freely exercise their authority to determine cases. She also wished to know whether the State party drew a distinction between citizenship and nationality. According to some sources, it was possible to deprive persons with Turkmen nationality of their citizenship. Was that true, for instance in the case of members of ethnic or other minorities? Did people enjoy different rights, for example before the courts, depending on whether or not they possessed citizenship?

32. **Mr. Bruni** asked whether the legislative provision mentioned in the State party's report, according to which an order by a superior or a State body could not serve as a justification for torture (CAT/C/TKM/1, para. 30), had ever been invoked during a trial, and whether there was a procedure in Turkmenistan whereby a subordinate could challenge an order that would lead to acts or torture or that was perceived by the subordinate as such. Referring to the provisions mentioned in paragraph 195 of the initial report of the State party, he requested detailed information concerning the most recent visits by the procurator to penal institutions and other places of deprivation of liberty. What were the procurator's conclusions and recommendations following the visits and how had they been implemented? It was an extremely important question inasmuch as, according to certain sources, it was not possible for international organizations to inspect the situation in the State party's prisons. The International Committee of the Red Cross (ICRC) was denied access to places of detention, and Doctors without Borders had closed down its programme in the country in April 2010 owing to the lack of cooperation on the part of the Turkmen Government. It was regrettable that the ICRC and humanitarian organizations were persistently denied access to places of detention several years after the General Assembly had noted with concern, in its resolution 60/172 of 2005, "the poor conditions in prisons in Turkmenistan and credible reports of ongoing torture and mistreatment of detainees" as well as "the failure of the Government of Turkmenistan to grant [the ICRC and international monitors] access to detainees". He asked for details of and a progress report on the proposed reforms of the prison regime and the juvenile justice system that were currently being developed by the Interdepartmental Commission on compliance with Turkmenistan's international human rights obligations.

33. **Mr. Gallegos Chiriboga** said that it was essential for the State party to establish an independent national human rights institution based on the Paris Principles and to take action against the impunity that was sometimes enjoyed by perpetrators of acts of torture or cruel, inhuman or degrading treatment. He also urged the Turkmen Government to enact a law on asylum that fully protected the rights of asylum-seekers and refugees, both at the borders and in transit areas, and that reflected international norms.

34. He was concerned about reports of frequent ill-treatment of persons with disabilities and asked whether the State party intended to adopt rules applicable to such persons in prisons, places of detention and hospitals and to establish an independent mechanism to monitor compliance with the rules.

35. **Mr. Mariño Menéndez** enquired about the circumstances in which the President could proclaim the loss of Turkmen nationality and asked whether a person affected by such a measure could file an appeal. With regard to equality between nationals and foreigners, for instance in terms of access to employment, he asked the Turkmen delegation whether foreigners were allowed to practise as lawyers and whether, in general, the legal profession could be described as truly liberal. He also asked the delegation whether human rights were taught in law faculties and whether they formed part of general educational curricula. He wished to know whether the State party allowed persons who did not wish to discharge compulsory military service to opt for the status of conscientious objectors.

36. **Ms. Sveaass** requested further information on the fate of Mr. Gulgeldy Annaniazov who, after having lived in Norway until 2002 as a refugee, had returned in 2008 to Turkmenistan, where he had been arrested shortly after his arrival on 23 June. She wished to be informed of his whereabouts and asked what had become of him and the reasons for his arrest, since he still held a refugee passport from Norway.

37. Describing the particularly harsh conditions of detention in Dashoguz women's prison, such as solitary confinement without a valid reason, inadequate rations, collective punishment following a suicide attempt by one of the detainees, and beatings, she asked what steps the State party intended to take to improve the situation and, in particular, whether it planned to bring the relevant legislation into line with international human rights norms and the Standard Minimum Rules for the Treatment of Prisoners.

38. She enquired about the subject matter of the 1,000 complaints that had been referred to the Presidential Commission for the consideration of complaints from citizens about actions by law enforcement agencies during the first year of its mandate (2007–2008) and asked whether the complaints had given rise to legal proceedings. She was also interested in hearing about the kinds of activities that the Commission had been conducting since 2008. If some of them, for instance, had concerned acts of violence against and ill-treatment of children, what specific remedial measures had been taken? She also asked whether the State party intended to prohibit corporal punishment, not only in the private sphere and in schools but also in establishments providing alternative care.

39. She asked the delegation to affirm or deny reports by national and international NGOs that they found it particularly difficult to carry out their work in the State party.

40. Noting that ill-treatment, corruption and hazing were common in the army, she enquired about the circumstances surrounding the death of Baty Polypov, who had been found hanged and covered with haematomas in 2010, and the death of Rachid R., who had been buried in 2011. The investigations into both cases seemed to have been discontinued. She further requested the Turkmen delegation to provide more general information about the violent and sudden deaths that had occurred within the armed forces.

41. She also asked for additional information about the measures taken to offer medical and social rehabilitation services to persons who had been declared victims of torture and

ill-treatment after an administrative or judicial procedure. The Committee would also welcome information about the state of public health facilities, which were allegedly dilapidated. Pregnant women were reportedly reluctant to be admitted to such facilities to give birth for fear that they might contract a disease or infection.

42. She had been informed that some political dissidents or opponents had been placed in psychiatric hospitals and forced to undergo treatment against their will. She wished to have more information about the case of Mr. Sazak Durdymuradov, who was allegedly interned in June 2008 in an establishment nicknamed “the Turkmen gulag”, where he had been savagely beaten. She asked the delegation why exactly Mr. Durdymuradov, who had been released after about two weeks of detention in response to pressure from the international community, had been detained and whether an investigation had been undertaken to establish the facts concerning the treatment to which he had been subjected.

43. **Mr. Wang Xuexian** said that he failed to understand what the status of the 16,000 persons “displaced within their own country” had been before the Turkmen Government had granted them citizenship. Had they not already possessed Turkmen citizenship? He also asked for details of the penal system reform project undertaken with British and German experts, the criminal justice system reform project, the project to define acts related to trafficking as a criminal offence which was implemented in collaboration with the United Nations Children’s Fund (UNICEF), and the capacity-building project for the preparation of reports which was implemented in cooperation with OHCHR and the United Nations Development Programme (UNDP).

44. **Ms. Kleopas** cited four cases that had been referred to the European Court of Human Rights — *Garabayev v. Russia*, *Raybikin v. Russia*, *Soldatenko v. Ukraine* and *Kolesnik v. Russia* — in which requests for extradition to Turkmenistan had been refused on the ground that Turkmenistan had not established an effective system for the prevention of torture, and that remand and convicted prisoners were subjected to inhuman and degrading treatment. She said that the Committee was particularly concerned about the findings of the Court, which was an independent international legal body that was known to impose a particularly high standard of proof.

45. She also asked the delegation whether investigations had been undertaken with a view to shedding light on the deaths during prison brawls of 30 inmates of LBK-12 prison and on the suicide or attempted suicide of several inmates of DZK-8 prison in Dashoguz, where sexual violence and acts of torture occurred frequently. She mentioned in particular the cases of Enebai Ataeva and her sister Maya Geldyeva, of Kurbanbibibi Atadjanova, her daughter and one of her subordinates, and of Guzel Ataeva.

46. She was interested in hearing whether the State party planned to establish a complaint mechanism for victims of torture that was independent of the police and prison services. She also asked whether health-care personnel and prison staff were required to attend training courses in detecting the after-effects of torture, as required by the Istanbul Protocol, in order to prevent impunity.

47. *The Turkmen delegation withdrew.*

*The first part (public) of the meeting rose at 12.15 p.m.*