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Turkmenistan

Submission to the UN Universal Periodic Review

**Third session of the UPR Working Group of
the Human Rights Council**

December 2008



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

Under section B, Amnesty International raises concern over the definition of “high treason” and the *propiska* system.

Section C highlights Amnesty International’s concerns in relation to the clampdown on civil society activists and independent journalists; enforced disappearances following unfair trial; restrictions on religious freedom; conscientious objectors; and discrimination against ethnic minorities.

In section D, Amnesty International makes a number of recommendations for action by the government.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

Definition of “high treason”

The 3 February 2003 Decree of the *Khalk Maslakhaty* (People’s Council), entitled “On declaring different illegal acts as high treason and about measures of punishment for traitors”, gives broad and vague definitions of “high treason” that could be used to punish people for peacefully exercising their right to freedom of expression. The Decree poses a particular threat to dissidents. The Decree stipulates that “slandering one’s own state”, “[putting] personal interests higher than those of the nation”, “spreading doubt among people about the interior and foreign policy of the first and permanent President of Turkmenistan”, and “attempting to create contradictions between people and the state” constitute high treason, which is punishable by life imprisonment.

The future of the Decree is currently unknown as President Berdymukhamedov, in a speech to the Constitutional Commission on 22 May 2008, proposed to significantly limit the powers of the *Khalk Maslakhaty* by downgrading it to an advisory body and transferring many of its functions to the *Medzhlis* of Turkmenistan.² Currently, the functions of the *Khalk Maslakhaty*, which consists of representatives of the executive, judicial and legislative, include adopting and amending the Constitution, and reviewing and confirming political, economic and social policies.³

The *propiska* system

The system of registration of permanent residence in Turkmenistan, widely referred to by the Russian word *propiska*, is inherited from the Soviet era. Amnesty International is concerned that the application of this system leads to a number of human rights violations affecting scores of people in Turkmenistan.

The *propiska* system has also become a breeding ground for corruption as many of its regulations can be overcome by paying bribes. According to a non-governmental source inside Turkmenistan, bribes to obtain a *propiska* in Ashgabad for those buying property in the capital and moving there from other parts of the country range between US\$5,000 and US\$15,000, some 10-30 per cent of the property price. While wealthy and well-connected people often find ways to overcome limitations based on the *propiska* system, those with limited financial means and influence may become trapped by the system.

The Law on Migration defines the act of obtaining a *propiska* as “the legalization of the citizen’s residence at a certain address in an accommodation on the territory of respective districts and towns of Turkmenistan, and an endorsement or a note (stamp) of such legalization on a document proving the citizen’s identity”.⁴ According to Article 45 of the law, one of the purposes of the *propiska* system is the regulation of internal migration.

² Newspaper *Neutral Turkmenistan*, No. 28, 23 May 2008.

³ Constitutional Law on the Powers of the *Khalk Maslakhaty*, 15 August 2003.

⁴ Article 45, part 1 of the Law on Migration, 7 December 2005.

The Regulation on the Passport System states that in order to obtain a *propiska* citizens must present proof of their entitlement to accommodation, such as a rental contract or a contract certifying the purchase of accommodation.⁵ Citizens caught without a valid *propiska* or only a temporary registration of residence are subject to administrative punishment.⁶

Although Article 46 of the Law on Migration states that “the lack of [...] a *propiska* [...] cannot serve as a reason to restrict citizens’ rights and freedoms”, non-governmental sources report that the *propiska* system – as applied in Turkmenistan – severely restricts people’s rights to housing, employment, social benefits (such as maternity and child support, and pension payments), free health care and access to education for children. According to a lawyer, now living in exile, the governors of cities like Ashgabad or Krasnovodsk have issued regulations contradicting published laws and the Constitution.

Requirements under the *propiska* make it virtually impossible for citizens to live and work legally in parts of the country other than where they are registered, particularly in the public sector and on state-run farms. The *propiska* system also puts obstacles in the way of married couples and families who wish to live together. According to non-governmental sources in Turkmenistan, the authorities can turn down a request for a *propiska* to live in the parents’ home, or for parents to live with their children, based on what appears to be random reasons. The refusal of a *propiska* in such cases may cut off access to social benefits, such as child benefits or pension payments.

C. Promotion and protection of human rights on the ground

Clampdown on civil society activists and independent journalists

Human rights defenders and other civil society activists are unable to operate openly. In recent years Amnesty International has received credible reports of harassment, torture and other ill-treatment, arbitrary detention and imprisonment after unfair trials of human rights defenders and other activists, independent journalists, individuals who are critical of the authorities, and former government officials. Opposition parties do not exist and many opposition activists live in exile.

The authorities also target the relatives of exiled human rights defenders in order to put pressure on them. For example, the director of the Turkmen Initiative for Human Rights and the director of the Turkmenistan Helsinki Foundation, both of whom live in exile, have reported pressure on their relatives, including regular visits from the authorities to demonstrate that they are “being watched”.

Virtually all media outlets are controlled by the state and editors and senior managers are appointed by the President. The only exception, known to Amnesty International, is the independent newspaper *Reklama i biznes* (Advertising and Business), owned by a Turkish businessman.⁷ Journalists collaborating with international media risk harassment, intimidation and arbitrary detention. Many journalists report that the authorities often disconnect their telephone lines and the relatively small number with private internet access report frequent disruptions to the service. Journalists who cooperate with foreign media outlets often use pseudonyms for security reasons. The authorities have on many occasions attempted to silence correspondents of the US Congress-funded *Radio Free Europe/Radio Liberty*, which is often critical of the Turkmenistani authorities and has broadcast human rights concerns.

⁵ Article 25 of the Regulation on the Passport System of Turkmenistan, 28 October 1996, No. 2843.

⁶ Article 35 of the Regulation on the Passport System of Turkmenistan.

⁷ See Turkmen Initiative for Human Rights: ‘*Sportivny Turkmenistan*’ To Be Banned, Turkmen Initiative for Human Rights, 19 September 2007.

The authorities continue to bar dissidents, political opponents and their relatives from leaving the country in an attempt to silence dissent. The targeting of relatives is also used to stop exiled opposition politicians from criticizing government policies and speaking out about human rights abuses in Turkmenistan.

Although the number of people on the “black list” barring them from travelling abroad has been reduced under the government of President Berdymukhamedov, scores of people including those perceived to be critical of the authorities, members of religious minorities, their relatives, relatives of people convicted in connection with the 2002 alleged armed attack on the President, and relatives and friends of government officials imprisoned in recent years, remain on the list, and there are reports that new names have been added since the new government came to power.

Enforced disappearances following unfair trials

Dozens of prisoners labelled as “traitors of the motherland” by the authorities in connection with the alleged armed attack, in November 2002, on former President Niyazov have been subjected to enforced disappearance for over five years. They were sentenced in unfair trials on charges including “conspiracy to violently overthrow the government and/or change the constitutional order”, “attempting to assassinate the President”, and “setting up or participating in a criminal organization”. In his March 2003 report on Turkmenistan, the OSCE-appointed rapporteur Professor Emmanuel Decaux described the conditions in which the trials took place as “in breach of all the most elementary principles of the rule of law”.⁸ Several dozen defendants convicted in a series of closed trials were not represented by independent lawyers. In many cases the defendants' lawyers and families were given little or no notice before the court hearings began. Some lawyers representing the defendants in court reportedly began their plea with the words “I am ashamed to defend a person like you.” The defendants were reportedly forced to sign a document saying they were familiar with the documentation related to their case, without being given the chance to study the documents. Foreign diplomats and the OSCE who asked to observe the trials were not given access to any of the court hearings.

According to non-governmental sources, most of the prisoners are held in the Ovadan-depe prison, not far from Ashgabad, known for its particularly harsh conditions. However, to date the authorities have not disclosed the whereabouts of the prisoners.

There have been countless rumours in recent years that some of the prisoners have died. In October 2007, a non-governmental source told Amnesty International that there was reliable information confirming the death of at least eight prisoners. The authorities have so far not responded to requests by relatives and the international community to disclose information about deaths in custody. No thorough, impartial and independent investigation has been opened into the deaths, which reportedly resulted from torture and other ill-treatment, harsh prison conditions and lack of appropriate medical treatment.

Restrictions on religious freedom

In violation of its international obligations and contrary to the country's Constitution, religious freedom is severely restricted in Turkmenistan.⁹ From early 1997, when re-registration of religious communities was made compulsory, until 2004, only two religious communities – the Russian Orthodox Church and Sunni Muslims – obtained registration. All other religious groups were effectively denied registration making them more vulnerable to government pressure, including imprisonment, deportation, internal exile, house eviction and harassment.

Despite their long-standing privileged status, the Russian Orthodox Church and the Sunni Muslim communities are also under strict state control and members of these groups have also been targeted and

⁸ OSCE Rapporteur's Report on Turkmenistan, 12 March 2003

⁹ For further information on religious freedom in Turkmenistan refer to the website of Forum 18, the web-based news service working on religious freedom issues: www.forum18.org.

punished when daring to express dissent. All imams in the state-approved mosques are appointed by the *Gengeshi* for Religious Affairs.

Since 2004, as a result of international pressure, several other religious communities have gained registration. They include the following Ashgabad-based congregations: Adventists, Baha'i, Baptists, the Church of Christ, the Full Gospel Church, the Greater Grace Protestant Church, the Hare Krishna community, the Light of the East Pentecostal Church, and the New Apostolic Church.

However, harassment and intimidation of members of registered as well as unregistered religious groups continue to be reported. Religious gatherings in homes have been raided on many occasions; often the participants have been temporarily detained, given large fines, and dismissed from their work places. Communities have been warned that their religious activities could lead to them losing their registration. In some cases police beat religious believers or threatened them with violence.

Many members of religious groups are included in a "black list" banning them from travelling abroad and many religious communities have been unable to invite representatives of their faith from abroad. Foreigners who participate in religious activities in Turkmenistan have been forcibly removed from the country.

Religious literature cannot be produced legally in Turkmenistan and customs officials frequently seize religious literature and religious items of all denominations. Such items can only be released with permission of the *Gengeshi* for Religious Affairs; however, such permission is almost never given.

Conscientious objectors at risk

Amnesty International continues to be concerned about the lack of a civilian alternative to military service for those objecting to serve in the armed forces on the basis of conscientiously-held beliefs, including religion. Young men who refuse to serve in the armed forces on such grounds risk imprisonment and suspended prison sentences.

Between July and December 2007, at least six Jehovah's Witnesses stood trial for refusing to serve in the army on conscientious grounds. The courts handed down sentences ranging from 18 months' suspended to 18 months' imprisonment for "evasion of call-up to military service" under Article 219, part 1, of the Criminal Code of Turkmenistan. On appeal the courts commuted the prison sentences to suspended sentences.

Discrimination against ethnic minorities

The last publicly accessible official statistics pertaining to the ethnic composition of the population in Turkmenistan reflect the situation as of January 1995. Government policies vis-à-vis ethnic minorities since the break-up of the Soviet Union led to tens of thousands of members of ethnic minorities leaving Turkmenistan. According to the Turkmen Initiative for Human Rights, only half or even only a third of ethnic Russians who lived in Turkmenistan when the country became independent in 1991 remain in the country. The group estimates that ethnic minorities currently make up some 20 per cent of the population.¹⁰ Uzbeks, Russians and Kazaks form the largest ethnic minority groups.

Discrimination against ethnic minorities manifests itself, for example, in restricted access to work and higher education. After examining Turkmenistan's report in August 2005, the Committee on the Elimination of Racial Discrimination called on the authorities "to ensure the right to work without discrimination based on national or ethnic origin".¹¹ The authorities deny that any such discrimination takes place in Turkmenistan.¹²

¹⁰ *Turkmen Initiative for Human Rights Report. National minorities in Turkmenistan: education, culture and social sphere*, Vienna, February 2008, p. 5.

¹¹ UN Doc. CERD/C/TKM/CO/5, 19 August 2005.

According to non-governmental sources, it has been a practice in Turkmenistan for many years to check the ethnic origin of relatives and ancestors of people applying for government posts, particular senior positions. In most cases an ethnic minority background makes it impossible to be appointed to such posts.

Article 2, part 3, of the August 2002 legislative act “On the Selection of Government Leaders and Officials for Government Service in Turkmenistan” states that the selection of government officials must not be affected by their ethnicity; however, other parts of the law make the selection dependent on their relatives. Under Article 2, part 7, one of the principles guiding selection is the “continuity of high moral qualities over several generations” and under Article 12, part 5, citizens entering government service have to provide information about their close relatives. Reportedly, in practice candidates are required to provide information about the ethnic origin of three generations of their ancestors as well as criminal records of relatives.

People applying to institutions of higher education are reportedly also checked to ensure that for the last three generations there are no non-ethnic Turkmen relatives. It is reportedly practically impossible for anyone with a non-Turkmen relative to be admitted to university unless they pay large bribes or are well-connected.

The number of schools teaching in languages of ethnic minorities was severely reduced under the previous government. In 2000 schools that previously taught in Uzbek or Kazak reportedly stopped enrolling new pupils. Russian-language schools also switched the language of tuition to Turkmen, with very few exceptions in some cities. According to the Turkmen Initiative for Human Rights, “children of non-titular nations (non-Turkmen nationals) suffered from the declining and virtually non-existent opportunities to study in their native language”.¹³

Ethnic minorities are often required to learn Turkmen in order to keep their jobs or to find employment. This is a problem for those who did not learn Turkmen in school. However, according to the Turkmen Initiative for Human Rights, the state does not offer language instruction for ethnic minorities and many cannot afford private tuition.

All students in Turkmenistan and female teachers, including ethnic minorities, reportedly have to wear Turkmen traditional dress while in school and other educational institutions.

The Russian drama theatre A. S. Pushkin in Ashgabad is believed to be the only cultural institution relating to an ethnic minority in Turkmenistan. According to the Turkmen Initiative for Human Rights, other ethnic minorities do not have their own cultural institutions and the authorities have on several occasions refused to register ethnic minority organizations and have harassed and intimidated activists.

Since the government of President Berdymukhamedov came to power there has been some positive developments with regard to cultural organizations of ethnic minorities. At a meeting between Nursultan Nazarbaev, the President of Kazakhstan, and President Berdymukhamedov, in May 2007 it was announced that a Kazak-Turkmen friendship society and a Kazak cultural centre would be established.

D. Recommendations for action by the State under review

Amnesty International calls on the government to:

Freedom of expression, association and freedom of religion and belief:

¹² According to the 2008 additional report of the Turkmenistani government to the Committee on the Elimination of Racial Discrimination, “[n]o limitations based on [ethnicity] exist with regard to employment, including in the government sector, as well as when entering the country’s higher education facilities.”

¹³ *Turkmen Initiative for Human Rights Report. National minorities in Turkmenistan: education, culture and social sphere*, Vienna, February 2008, p. 8.

Protect the human rights of political dissidents, religious believers, civil society activists and journalists and ensure that they are able to carry out their peaceful activities without harassment, threat of detention or imprisonment;

Immediately and unconditionally release all prisoners of conscience;

Protect the human rights of the relatives of political opponents, religious believers, journalists and civil society activists.

The November 2002 alleged armed attack on then President Saparmurad Niyazov:

Ensure that all those convicted in connection with the alleged attack are retried in proceedings which meet international standards for fair trial and to which international trial observers have access;

Disclose the prisoners' whereabouts, and grant the International Committee of the Red Cross, other independent observers, and their relatives access to the prisoners;

Make public the names of all prisoners who died in custody; conduct thorough, impartial and independent investigations into the circumstances of their deaths, and publicize the results;

Open thorough, impartial and independent investigations into all allegations of torture or other ill-treatment.

The right to a fair trial:

Fundamentally reform the judiciary to strengthen the rule of law;

Bring laws and practices in line with international human rights standards regarding fair trial, in particular Articles 14 and 15 of the International Covenant on Civil and Political Rights;

Reform the *Khalk Maslakhaty* to ensure that it does not perform functions which, under international human rights law, should be performed by independent, impartial and competent courts.

The right to be free from torture and other ill-treatment:

Eradicate impunity for torture and other ill-treatment and initiate thorough, impartial and independent investigations into all such allegations;

Conduct thorough, impartial and independent investigations into all deaths in custody;

Publish the scope, methods and findings of these investigations and bring to justice those responsible.

The right for conscientious objectors to alternative civilian service:

Introduce legislative provisions to ensure that a civilian alternative of non-punitive length is available to those who object to military service based on conscientiously-held beliefs.

The right to freedom of movement and to choose one's residence:

Lift travel restrictions imposed on political opponents, religious believers, civil society activists and their families;

Abolish legislation and practices arising from the residence registration system (*propiska* system) that restrict access to housing, employment, social benefits, free health care and access to education for children.

The right to non-discrimination:

End discrimination of ethnic minorities, in particular with regard to access to employment and higher education;

Enable ethnic minorities to establish non-governmental cultural institutions.

Appendix: Amnesty International documents for further reference¹⁴

Turkmenistan: No effective human rights reform, 23 June 2008, AI Index: EUR 61/004/2008

Central Asia: Summary of human rights concerns, March 2007 – March 2008, April 2008, AI Index: 04/001/2008

Europe and Central Asia: Summary of Amnesty International's concerns in the region, January – June 2007, December 2007, AI Index: EUR 01/010/2007

Turkmenistan: Amnesty International's recommendations to the new government of Turkmenistan, 8 February 2007, AI Index: EUR 61/005/2007

¹⁴ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/europe-and-central-asia/eurasia/turkmenistan>