



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

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## Committee against Torture

Forty-sixth session

9 May - 3 June 2011

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

#### Concluding observations of the Committee against Torture

#### Turkmenistan

1. The Committee against Torture considered the initial report of Turkmenistan (CAT/C/TKM/1) at its 994th and 997th meetings, held on 17 and 18 May 2011 (CAT/C/SR.994 and 997), and adopted, at its 1015th meeting (CAT/C/SR.1015), the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the initial report of Turkmenistan, which generally follows the Committee's guidelines for reporting. However, the Committee regrets that the report lacks statistical and practical information on the implementation of the provisions of the Convention and that it was submitted 10 years late, which prevented the Committee from conducting an analysis of the implementation of the Convention in the State party following its ratification in 1999.

3. The Committee notes with appreciation that a high-level delegation from the State party met with the Committee during its forty-sixth session, and also notes with appreciation the opportunity to engage in a constructive dialogue covering many areas under the Convention.

#### B. Positive aspects

4. The Committee welcomes the fact that the State party has ratified or acceded to the following international instruments:

(a) International Convention on the Elimination of All Forms of Racial Discrimination (on 29 September 1994);

(b) Convention on the Rights of the Child (on 20 September 1993) and its two Optional Protocols (on 29 April and 28 March 2005);

- (c) International Covenant on Civil and Political Rights (on 1 May 1997) and its two Optional Protocols (on 1 May 1997 and 11 January 2000);
  - (d) Convention on the Elimination of All Forms of Discrimination against Women (on 1 May 1997) and its Optional Protocol (on 20 May 2009);
  - (e) International Covenant on Economic, Social and Cultural Rights (on 1 May 1997);
  - (f) Convention on the Rights of Persons with Disabilities (on 4 September 2008) and its Optional Protocol (on 10 November 2010).
5. The Committee notes the ongoing efforts by the State party to reform its legislation, policies and procedures in areas of relevance to the Convention, including:
- (a) Adoption of the new Constitution, on 26 September 2008;
  - (b) Adoption of the new Criminal Enforcement Code, on 26 March 2011;
  - (c) Adoption of the new Criminal Code, on 10 May 2010;
  - (d) Adoption of the new Code of Criminal Procedure, on 18 April 2009;
  - (e) Adoption of the Courts of Law Act, on 15 August 2009;
  - (f) Adoption of the Law on Combating Trafficking in Persons, on 14 December 2007;
  - (g) Establishment of the State Commission to Review Citizens' Complaints on the Activities of Law Enforcement Agencies, through Presidential Decree, on 19 February 2007;
  - (h) Abolition of the death penalty, through Presidential Decree, on 28 December 1999.

## C. Principal subjects of concern and recommendations

### Torture and ill-treatment

6. The Committee is deeply concerned over the numerous and consistent allegations about the widespread practice of torture and ill-treatment of detainees in the State party. According to reliable information presented to the Committee, persons deprived of their liberty are tortured, ill-treated and threatened by public officers, especially at the moment of apprehension and during pretrial detention, to extract confessions and as an additional punishment after the confession. This information confirms the concerns expressed by a number of international bodies, inter alia, those expressed in the report of the Secretary-General (A/61/489, paras. 38-40) and in the decisions of the European Court of Human Rights in the cases of *Kolesnik v. Russia*, *Soldatenko v. Ukraine*, *Ryabkin v. Russia* and *Garabayev v. Russia*. While noting the existence of laws which prohibit, inter alia, abuse of power and the use of violence by officials against individuals in their custody for the purpose of obtaining evidence, the Committee is concerned about the substantial gap between the legislative framework and its practical implementation (arts. 2, 4, 12 and 16).

**As a matter of urgency, the State party should take immediate and effective measures to prevent acts of torture and ill-treatment throughout the country, including by implementing policies that would produce measurable results in the eradication of torture and ill-treatment by State officials. Furthermore, the State party should take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try the**

perpetrators of such acts and, where they are convicted, impose appropriate sentences, and properly compensate the victims.

#### **Status of the Convention in the domestic legal order**

7. While noting article 6 of the Turkmen Constitution, which recognizes the primacy of the universally recognized norms of international law, the Committee notes with concern that the Convention has never been directly invoked in domestic courts. The Committee takes note of the oral assurance by representatives of the State that the direct application of the Convention by courts is envisaged shortly.

**The Committee recommends that the State party take the measures necessary to ensure the full applicability of the provisions of the Convention in its domestic legal order and the practical implementation of article 6 of the Constitution by, inter alia, providing extensive training to the judiciary and law-enforcement personnel in order to make them fully aware of the provisions of the Convention and its direct applicability. Furthermore, the State party should report back on progress made in this respect and on decisions of national courts or administrative authorities giving effect to the rights enshrined in the Convention.**

#### **Definition, absolute prohibition and criminalization of torture**

8. While noting article 23 of the Constitution, which prohibits acts of torture or cruel, inhuman or degrading treatment or punishment, the Committee remains concerned that the State party has still not incorporated into domestic law the crime of torture as defined in article 1 of the Convention, and that the Criminal Code does not contain provisions specifically providing for liability for torture, but rather criminalizes “the causing of physical and moral suffering through systematic beatings or other violent acts” under article 113, “abuse of power” by an official under article 358, and the use of force by officials against individuals in their custody for the purpose of obtaining information under article 197. The Committee notes with concern article 47 of the Constitution, under which the implementation of the rights and freedoms of citizens may be suspended in a state of emergency or martial law in accordance with domestic laws. Furthermore, the Committee regrets the lack of information about rules and provisions on the statute of limitations (arts.1, 2 and 4).

**The Committee urges the State party to adopt a definition of torture that covers all the elements contained in article 1 of the Convention. The definition of torture should set out clearly the purpose of the offence, provide for aggravating circumstances, include the attempt to commit torture as well as acts intended to intimidate or coerce the victim or a third person, and should refer to the motive or reasons for inflicting torture identified in article 1 of the Convention. The State party should also ensure that acts of torture are not defined in terms of a less serious offence, such as the causing of physical and moral suffering, and that these offences are punishable by appropriate penalties which take into account their grave nature, as set out in article 4, paragraph 2, of the Convention. Furthermore, the State party should ensure that the absolute prohibition against torture is non-derogable and that acts amounting to torture are not subject to any statute of limitations.**

#### **Fundamental legal safeguards**

9. While noting article 26 of the Code of Criminal Procedure on legal assistance, the Committee expresses its serious concern at the State party’s failure in practice to afford all persons deprived of their liberty, including detainees held in temporary holding facilities (IVS), with all fundamental legal safeguards, as referred to in paragraphs 13 and 14 of the Committee’s general comment No. 2 (2008) on the implementation of article 2 by States

parties, from the very outset of detention. The Committee is concerned that the Criminal Code allows police officers to detain a person without the authorization of the prosecutor general for 72 hours and without presentation to a judge for up to one year. It is reported that detainees are frequently denied access to a lawyer and that violence is inflicted by police officers to extract confessions during that period of time. The Committee notes with concern reports that torture and ill-treatment of minors is widespread at the moment of apprehension and during pretrial detention (CRC/C/TKM/CO/1, para. 36) (arts. 2, 11 and 12).

**The Committee recommends that the State party:**

(a) **Ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention, including the rights to prompt access to a lawyer and a medical examination by an independent doctor, to contact family members, to be informed of their rights at the time of detention, including about the charges laid against them, and to appear before a judge promptly;**

(b) **Ensure that minors have a lawyer and their parents or legal guardians present at every phase of a proceeding, including during questioning by a police officer;**

(c) **Ensure that all detainees, including minors, are included in a central register of persons deprived of liberty and that the register can be accessed by lawyers and family members of those detained and others as appropriate;**

(d) **Take measures to ensure the audio- or videotaping of all interrogations in police stations and detention facilities as a further means to prevent torture and ill-treatment.**

**Independence of the judiciary**

10. The Committee is deeply concerned at the ineffective functioning of justice system, apparently caused in part by the lack of independence of the procuracy and judiciary, as was noted by the Secretary-General in 2006 (A/61/489, para. 46). The Committee regrets that responsibility for the appointment and promotion of judges rests with the President, which jeopardizes the independence of the judiciary. The Committee express its concern about the case of Ilmurad Nurliev, a Protestant pastor who was convicted of swindling following a trial that allegedly violated numerous fair trial and due process standards (arts. 2 and 13).

**The State party should take measures to establish and ensure the independence and impartiality of the judiciary in the performance of duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary. The State party should also permit an impartial and independent review of Mr. Nurliev's conviction.**

**Complaint mechanisms and investigations; impunity**

11. The Committee is deeply concerned that allegations of torture and ill-treatment by State officers are seldom investigated and prosecuted, and that there appears to be a climate of impunity resulting in the lack of meaningful disciplinary action or criminal prosecution against persons of authority accused of acts specified in the Convention (arts. 2, 11, 12, 13 and 16). In particular, the Committee is concerned about:

(a) The lack of an independent and effective complaint mechanism for receiving and conducting impartial and full investigations into allegations of torture, in particular of convicted prisoners and pretrial detainees;

(b) Information suggesting that serious conflicts of interest prevent the existing complaints mechanisms from undertaking effective, impartial investigations into complaints received;

(c) Reports indicating that no official has been prosecuted for having committed torture and that, over the last 10 years, only four law enforcement officers have been charged with the less serious offence of “exceeding the limits of authorities” under article 182, paragraph 2, of the Criminal Code;

(d) The lack of detailed information, including statistics, on the number of complaints of torture and ill-treatment made to all existing complaints mechanisms, including the National Institute for Democracy and Human Rights and the State Commission to Review Citizens’ Complaints on the Activities of Law Enforcement Agencies, and the results of those investigations, whether proceedings were initiated at the penal and/or disciplinary levels, and their outcomes. In this regard, the Committee expresses particular concern regarding the case of Bazargeldy and Aydyemal Berdyev, in which the State party has denied the authenticity of a response that the Berdyevs allege to have received from the National Institute in 2009 regarding a claim of torture they had previously submitted.

**The Committee urges the State party:**

**(a) To establish an independent and effective mechanism:**

**(i) To facilitate the submission of complaints by victims of torture and ill-treatment to public authorities, including by obtaining medical evidence in support of their allegations, and to ensure in practice that complainants are protected against any ill-treatment or intimidation as a consequence of their complaint or any evidence given;**

**(ii) To undertake prompt, thorough and impartial investigations into allegations of torture or ill-treatment by police and other public officials who carried out, ordered or acquiesced in such practices and to punish offenders;**

**(b) To ensure that such investigations not be undertaken by or under the authority of the police, but by an independent body, and that all officials alleged to be responsible for violations of the Convention be suspended from their duties during those investigations;**

**(c) To provide information on the number of complaints filed against public officials on torture and ill-treatment, as well as information on the results of those investigations and any proceedings undertaken, at both the penal and disciplinary levels. Statistical information, disaggregated by sex, age and ethnicity of the individual bringing the complaints, should be provided and should describe each relevant allegation and indicate the authority that undertook the subsequent investigation. This information should include specific information regarding the claim of torture in detention submitted to the National Institute by Bazargeldy and Aydyemal Berdyev, including any steps taken to investigate their claims, the body that undertook the investigation, and the outcome of that investigation.**

**National human rights institution**

12. While noting the State party’s response to the recommendation to establish an independent national human rights institute made in the course of the universal periodic review (A/HRC/10/79), the Committee is concerned that no such institute has been established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee regrets that the existing national protection mechanisms within the Office of the President,

including the National Institute for Democracy and Human Rights and the State Commission to Review Citizens' Complaints on the Activities of Law Enforcement Agencies do not comply with the Paris Principles, especially in respect of their composition of membership and lack of independence (arts. 2, 11 and 13).

**The State party should proceed with the establishment of an independent national human rights institution, in accordance with the Paris Principles, which is vested with the competence to hear and consider complaints and petitions concerning individual situations, to monitor detention facilities, and to make the results of its investigations public, and should ensure the implementation of the institution's recommendations with respect to awards of redress to victims and the prosecution of perpetrators, as well as the provision of adequate resources for its operation. The Committee recommends that the State party establish a national preventive mechanism as a part of a national human rights institution. It also invites the State party to consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

#### **Human rights defenders**

13. The Committee notes with concern numerous and consistent allegations of serious acts of intimidation, reprisals and threats against human rights defenders, journalists and their relatives, as well as the lack of information provided on any investigations into such allegations. The Committee also expressed its serious concerns about reports that human rights defenders have faced arrest on criminal charges, apparently in retaliation for their work, and trials in which numerous due process violations have been reported. The Committee expresses its grave concern that on 30 September 2010, President Berdymukhamedov instructed the Ministry of National Security to lead an "uncompromising fight against those who slander our democratic... secular state" following a satellite television station's broadcast of an interview with Farid Tukhbatullin, an exiled Turkmen human rights defender, which had aired the previous day. While remaining concerned about reported threats against Mr. Tukhbatullin and attacks against the website he operates, the Committee appreciates the oral assurance given by the State party's representative that he will not be intimidated or threatened by the Government of Turkmenistan or its agents. The Committee regrets the State party's failure to implement the decision of the Working Group on Arbitrary Detention (Opinion No. 15/2010) and to reply to the urgent appeals sent by the Special Rapporteur on the situation of human rights defenders (A/HRC/4/37/Add.1, paras. 700-704) on behalf of Annakurban Amanklychev, a member of the Turkmenistan Helsinki Foundation, and Sapardurdy Khajiev, a relative of Foundation's director (arts. 2, 12 and 16).

**The State party should take all necessary steps:**

- (a) To ensure that human rights defenders and journalists, in Turkmenistan and abroad, are protected from any intimidation or violence as a result of their activities;**
- (b) To ensure the prompt, impartial and thorough investigation of such acts and to prosecute and punish perpetrators with penalties appropriate to the nature of those acts;**
- (c) To provide updates on the outcome of investigations of alleged threats against and ill-treatment of human rights defenders, including those mentioned above;**
- (d) Implement the decision of the Working Group on Arbitrary Detention (Opinion No. 15/2010) regarding Mr. Amanklychev and Mr. Khajiev, which concludes**

**that their imprisonment is arbitrary and calls for their immediate release and the provision of compensation for damages.**

#### **Monitoring and inspection of places of detention**

14. While noting the detention monitoring activities by the Office of the Procurator-General, the Committee is deeply concerned that there is no access for international monitoring bodies, either governmental or non-governmental, to detention facilities in Turkmenistan. The Committee notes that the State party cooperates with the International Committee of the Red Cross (ICRC), which provides assistance with humanitarian law and in other ways. However, the Committee notes with concern that the State party has not granted ICRC access to detention facilities, despite a number of recommendations made by international bodies, including the General Assembly in its resolutions 59/206 and 60/172, and as noted by the Secretary-General (A/61/489, para. 21). The Committee also expresses regret at the long outstanding requests for a country visit by the nine special procedures mandate holders of the Human Rights Council, in particular those of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention (arts. 2, 11 and 16).

#### **The Committee urges the State party:**

**(a) To establish a national system that independently, effectively and regularly monitors and inspects all places of detention without prior notice;**

**(b) To grant, as a matter of great urgency, access to independent governmental and non-government organizations, in particular ICRC, to all detention facilities in the country;**

**(c) To strengthen further the cooperation with United Nations human rights mechanisms, in particular by permitting visits from the Special Rapporteur on torture and the Working Group on Arbitrary Detention, in conformity with the terms of reference for fact-finding missions by special rapporteurs and special representatives (E/CN.4/1998/45), as soon as possible.**

#### **Enforced disappearances and incommunicado detention**

15. The Committee is concerned about a number of persons who have been arrested and sentenced at closed trials without proper defence and imprisoned incommunicado, and the lack of information from the State party on progress made in ascertaining their fate and whereabouts. These persons include Gulgeldy Annaniazov, Ovezgeldy Ataev, Boris Shikhmuradov, Batyr Berdyev, and those imprisoned in connection with the assassination attempt on the former President in 2002, raised, inter alia, by the Special Rapporteur on torture (A/HRC/13/42, paras. 203-204; E/CN.4/2006/6/Add.1, para. 514). In particular, the Committee is concerned about the lack of: (a) effective, independent and transparent investigations into allegations of such practices, and prosecutions and convictions of perpetrators, where appropriate; and (b) due notification of the results of such investigations to the relatives of individuals who have disappeared, including confirmation of their place of detention and whether they are alive. This lack of investigation and follow-up raises serious questions with respect to the State party's willingness to fulfil its obligations under the Convention and constitutes a continuing violation of the Convention with respect to the relatives of the victims (arts. 12 and 13).

#### **The Committee urges the State party:**

**(a) To take all appropriate measures to abolish incommunicado detention and ensure that all persons held incommunicado are released, or charged and tried under due process;**

**(b) As a matter of priority, to inform the relatives of those who have been detained incommunicado of their fate and whereabouts, and facilitate family visits;**

**(c) To take prompt measures to ensure prompt, impartial and thorough investigations into all outstanding cases of alleged disappearances, to provide remedy as appropriate and to notify relatives of the victims of the outcomes of such investigations and prosecutions;**

**(d) Inform the Committee of the outcomes of the investigations into the aforementioned cases of Mr. Annaniazov, Mr. Ataev, Mr. Shikhmuradov, Mr. Berdyev and those imprisoned in connection with the 2002 assassination attempt on the former President.**

#### **Deaths in custody**

16. The Committee is deeply concerned about numerous and consistent reports on a number of deaths in custody and on the alleged restrictions on independent forensic examination into the cases of such deaths, including the case of Ogulsapar Muradova, who was held incommunicado throughout her detention and died in custody under suspicious circumstances. This case, including signs of torture, has been well documented, and was taken up by the Secretary-General (A/61/489, para. 39) and several Special Rapporteurs (A/HRC/WG.6/3/TKM/2, para. 38) (arts. 2, 11, 12 and 16).

#### **The Committee urges the State party:**

**(a) To promptly, thoroughly and impartially investigate all incidents of death in custody; to make the results of those investigations available to the public; and to prosecute those responsible for committing violations of the Convention leading to such deaths;**

**(b) To ensure independent forensic examinations in all cases of death in custody; to permit family members of the deceased to commission independent autopsies of the deceased; and to ensure that the State party's courts accept the results of independent autopsies as evidence in criminal and civil cases;**

**(c) To provide the Committee with data regarding all deaths in custody, disaggregated by the facility in which the deceased was detained, the sex of the victim, and the outcome of the inquiry into the deaths in custody; and, in particular, to inform the Committee of the details of any investigation undertaken into deaths alleged to be the result of torture, ill-treatment or wilful negligence, including the death in custody in September 2006 of Ms. Muradova.**

#### **Misuse of psychiatric institutions**

17. The Committee is deeply concerned about numerous and consistent credible reports of misuse of psychiatric hospitals to detain persons for reasons other than medical, in particular for the non-violent expression of his/her political views. The Committee regrets that the State party has failed to reply to at least two urgent appeals sent jointly by the Special Rapporteur on torture, the Special Rapporteur on the right to freedom of opinion and expression and the Working Group on Arbitrary Detention on behalf of Gurbandurdy Durdykuliev, a political dissenter (E/CN.4/2005/62/Add.1, para. 1817), and Sazak Durdymuradov, a journalist (A/HRC/10/44/Add.4, para. 239) (arts. 2, 11 and 16), in 2004 and 2008, respectively.

#### **The Committee recommends that the State party:**

**(a) Release those forcibly placed in psychiatric hospitals for reasons other than medical and take appropriate measures to remedy this situation;**



(b) Take measures to ensure that no one is involuntarily placed in psychiatric institutions for reasons other than medical by, inter alia, allowing access to psychiatric facilities and mental hospitals by independent monitors and monitoring mechanisms, and ensuring that hospitalization for medical reasons is decided only upon the advice of independent psychiatric experts and that such decisions can be appealed;

(c) Inform the Committee of the outcomes of the investigations of the allegations of forced confinement in psychiatric hospitals, in particular with regard to the cases of Mr. Durdykuliev and Mr. Durdymuradov.

#### **Violence in prison, including rape and sexual violence**

18. The Committee expresses its concern at ongoing physical abuse and psychological pressures by prison staff, including collective punishment, ill-treatment as a “preventive” measure, the use of solitary confinement, and sexual violence and rape by prison officers or inmates, which have reportedly motivated the suicides of several detainees. In relation to the incident of beatings of a female inmate in February 2009 in the women’s prison colony in Dashoguz, the Committee notes with concern that, while the head of the colony was dismissed on bribery charges, no criminal sanctions were imposed on the officials responsible for this violence (arts. 2, 11, 12 and 16).

#### **The Committee recommends that the State party:**

(a) Draw up a comprehensive plan to address the issue of violence, including sexual violence and rape, by inmates and prison staff in all detention facilities, including the women’s prison colony in Dashoguz, and ensure effective investigations into those cases. The State party should provide the Committee with information on the investigation of cases of violence and rape of women detainees by public officials in Ashgabat in 2007 and in Dashoguz in 2009, and the outcomes of such trials, including information on the punishments meted out and the redress and compensation offered to victims;

(b) Coordinate the judicial supervision of conditions of detention between competent organs and ensure thorough investigations of all allegations of torture or ill-treatment committed in detention facilities;

(c) Ensure that solitary confinement remains an exceptional measure of limited duration.

#### **Conditions of detention**

19. While noting the Government’s plan for the construction of new detention facilities, the Committee remains deeply concerned about the current material and hygienic conditions in places of deprivation of liberty, such as inadequate food and health care, severe overcrowding, and unnecessary restrictions on family visits (arts. 11 and 16).

**The State party should intensify its efforts to bring the conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national law standards, in particular by:**

(a) Reducing prison overcrowding and considering the establishment of non-custodial forms of detention;

(b) Ensuring all detainees’ access to and receipt of the necessary food and health care;

(c) **Ensuring that all minors are detained separately from adults through their whole period of detention or confinement and offering them educational and recreational activities.**

#### **Coerced confessions**

20. The Committee notes the existence of national legislation guaranteeing the principle of non-admissibility of coerced evidence in courts, such as article 45 of the Constitution and article 25, paragraph 1, of the Code of Criminal Procedure. The Committee notes, however, with grave concern numerous, consistent and credible reports that the use of forced confessions as evidence in courts is widespread in the State party and that such practices persist owing to the impunity of guilty parties. The Committee expresses concern about the lack of information provided by the State party regarding any officials who may have been prosecuted and punished for extracting confessions (art. 15).

**The Committee urges the State party to ensure that, in practice, evidence obtained by torture may not be invoked as evidence in any proceedings, in line with article 15 of the Convention, and to review cases of convictions based solely on confessions, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment, and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures. The State party should provide information on whether any officials have been prosecuted and punished for extracting such confessions.**

#### **Redress, including compensation and rehabilitation**

21. While noting with appreciation that the right to compensation for victims of “illegal actions” or “harm caused” by State bodies is guaranteed pursuant to article 44 of the Constitution and article 23 of the Code of Criminal Procedure, the Committee remains concerned at the reported lack of implementation of the rights of victims of torture and ill-treatment to redress and compensation, including rehabilitation, and the lack of examples of cases in which individuals have received such compensation. Furthermore, the Committee, while noting the information provided by State representatives, expresses its serious concern about the State party’s failure to implement the Human Rights Committee’s Views on the case of *Komarovski v. Turkmenistan* (communication No. 1450/2006, Views adopted on 24 July 2008), in which that Committee decided, following a reply of the Government of Turkmenistan, that Turkmenistan must provide Mr. Komarovski with an effective remedy and take appropriate steps to prosecute and punish the persons responsible for the violations (art.14).

**The Committee recommends that the State party strengthen its efforts to provide victims of torture and ill-treatment with redress in practice, including fair and adequate compensation and as full rehabilitation as possible, and to protect them from stigma and re-victimization. The State party should provide information on redress, compensation and other measures, including rehabilitation, ordered by the courts and provided for victims of torture, or their families, during the reporting period. This information should include the number of requests made, the number granted, and the amounts ordered and actually provided in each case. In addition, the State party should provide information on its implementation of the Human Rights Committee’s Views concerning the case of *Komarovski v. Turkmenistan*.**

#### **Hazing in the armed forces**

22. The Committee is seriously concerned at numerous and consistent reports of hazing in the armed forces, conducted by or with the consent, acquiescence or approval of officers or other personnel. Such practice of hazing has devastating effect on victims and reportedly

leads to their suicide and death in some cases. While noting the information provided by State representatives, the Committee remains concerned about reports that investigations are inadequate or absent (arts. 2 and 16).

**The Committee recommends that the State party:**

- (a) Reinforce the measures to prohibit and eradicate hazing in the armed forces;**
- (b) Ensure prompt, impartial and thorough investigation and, as appropriate, prosecution of all incidents, including cases of suicides and death allegedly caused by ill-treatment and mental pressure, and report publicly on the outcomes of such prosecutions;**
- (c) Take measures to provide the rehabilitation of victims, including through appropriate medical and psychological assistance.**

#### **Refugees and asylum-seekers**

23. The Committee welcomes the State party's decision to grant citizenship and permanent residency to thousands of Tajik refugees in 2005. The Committee is concerned that asylum-seekers' access to independent, qualified and free legal advice and representation is limited in Turkmenistan and that persons whose asylum claims are rejected in the first instance may not be able to lodge well-reasoned appeals. It is further concerned by the delay in adopting the amended Refugee Law and the lack of information on asylum applications and refugees, as well as the number of expulsions. The Committee also regrets the lack of information about safeguards to ensure that persons are not returned to countries where they face real risk of torture and about any use of "diplomatic assurances" as a way to circumvent the absolute prohibition of non-refoulement established in article 3 of the Convention (art. 3).

**The State party should take the necessary measures:**

- (a) To expedite the adoption of the amended Refugee Law and revise its current procedures and practices to bring them into line with international standards, in particular article 3 of the Convention;**
- (b) To ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, and to consider transferring the power to decide the matter from the President to the judiciary;**
- (c) To guarantee asylum-seekers, including those that may face detention, access to independent, qualified and free legal advice and representation, in order to ensure that the protection needs of refugees and other persons in need of international protection are duly recognized and refoulement is prevented;**
- (d) To establish and ensure the implementation of a standardized and accessible asylum and referral procedure at border points, including at international airport and transit zones;**
- (e) To establish a system for collecting and sharing statistical and other information on asylum-seekers, including those in detention, whose applications are pending with the authorities, as well as on persons extradited, expelled or returned by the State party and the countries to which they have been sent; and to provide the Committee with the relevant data.**

**Training**

24. While noting the information included in the State party's report on training programmes and publication of human rights handbooks, the Committee regrets the lack of information on targeted training for medical and law enforcement personnel, security and prison officials, judicial officials and other persons involved with the custody, interrogation or treatment of persons under State or official control on matters related to the prohibition of torture and cruel, inhuman or degrading treatment or punishment (art. 10).

**The Committee recommends that the State party:**

**(a) Provide all persons charged with the various functions enumerated in article 10 of the Convention with regular training concerning the provisions of the Convention and the absolute prohibition of torture, as well as on rules, instructions and methods of interrogation, especially in cooperation with civil society organizations;**

**(b) Provide all relevant personnel, especially medical personnel, with specific training on how to identify signs of torture and ill-treatment and to use the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**

**(c) Implement a gender-sensitive approach for the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment;**

**(d) Include the prohibition of ill-treatment of and discrimination against persons belonging to ethnic, religious and other minorities in the training of law enforcement officials and other relevant professional groups;**

**(e) Assess the effectiveness and impact of such training and educational programmes on the reduction of cases of torture and ill-treatment.**

**Lack of data**

25. Despite the publication of the Committee's guidelines on the form and content of initial reports (CAT/C/4/Rev.3), and despite its requests that the State party provide the Committee with statistical information, the Committee regrets that it received only very limited information other than about legal provisions. The absence of comprehensive or disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment by law enforcement personnel, comprehensive prison occupancy rates, and deaths in custody, as well as data on individual cases of alleged torture and enforced disappearance, including the whereabouts of such persons, raised by the Committee severely hampers the identification of possible patterns of abuse requiring attention (arts. 2, 12, 13 and 19).

**The State party should compile and provide the Committee with statistical data relevant to the monitoring of the implementation of the Convention at the national level, the type of bodies engaged in such monitoring and their reporting mechanisms, disaggregated by, inter alia, sex, ethnicity, age, crime and geographical location, including information on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, incommunicado detention, deaths in custody, trafficking, domestic and sexual violence, and the outcomes of all such complaints and cases, including compensation and rehabilitation provided to victims.**

26. The Committee recommends that the State party consider making the declarations envisaged under articles 21 and 22 of the Convention.

27. The Committee invites the State party to ratify United Nations human rights treaties to which it is not yet a party, particularly the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State party is also encouraged to ratify the Rome Statute of the International Criminal Court.

28. The State party is requested to disseminate widely the report submitted to the Committee, the present concluding observations and the summary records, in appropriate languages, through official websites, the media and non-governmental organizations, and to report to the Committee on the results of such dissemination.

29. The Committee requests the State party to provide, within one year, follow-up information in response to the Committee's recommendations contained in paragraphs 9, 14, and 15 (b) and (c) of the present document and to provide the information requested in the dialogue with State's representatives.

30. The Committee invites the State party to submit its next treaty-specific report within the limit of 40 pages. The Committee also invites the State party to update its common core document (HRI/CORE/TKM/2009) in accordance with the requirements of the common core document contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6), approved by the Inter-Committee meeting of the human rights treaty bodies, and to observe the limit of 80 pages. The treaty-specific document and the common core document together constitute the reporting obligation of the State party under the Convention.

31. The State party is invited to submit its next report, which will be the second periodic report, by 3 June 2015.

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