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Suspended lives: torture of the families of the disappeared in Turkmenistan

"Of course, it has been very difficult to live in the dark about the fate of my father for 15 years - it is the most brutal torture for us - but there is still hope."

Umed Uldzhabaev, son of Rustem Dzhumaev¹, who has been enforcedly disappeared for 15 years.

It has been 15 years since the alleged assassination attempt on the then President of Turkmenistan, and 15 years since the families of those accused of the attack have been waiting to receive information about the fate and whereabouts of their husbands, brothers, fathers and sons. The fate of at least 80 prisoners, who are subjected to enforced disappearance after the alleged assassination attempt, remains unknown. The Turkmenistani authorities are withholding all information and do not provide any official documentation, even copies of court verdicts, to the family members. Relatives of the disappeared, many of them women, have spent years searching for truth and justice.

The experience of Tatyana Shikmuradova and Daria Atdaeva, described below, and others shows that enforced disappearance is a crime without end. Without the truth about the fate of a missing family member, those close to the individual are unable to achieve justice, truth and reparation for the crimes they have suffered and cannot properly mourn their loss. As noted by the Working Group on Enforced and Involuntary Disappearances, "the act begins at the time of the abduction and extends for the whole period of time that the crime is not complete, that is to say until the state acknowledges the detention or releases information pertaining to the fate or whereabouts of the individual."²

Impunity remains the rule for enforced disappearances and other crimes under international law and violations of human rights in Turkmenistan. For 15 years Turkmenistani authorities have failed to end the practice of enforced disappearances, refused to undertake investigations into complaints or to identify the whereabouts or fate of the victims, and ignored recommendations made by international human rights bodies.³

¹ For case details see <https://provetheyarealive.org/the-disappeared/25-djumaev-rustem/>.

² Working Group on Enforced or Involuntary Disappearances, *General Comment on Enforced Disappearance as a Continuous Crime*, available at <http://www.ohchr.org/Documents/Issues/Disappearances/GC-EDCC.pdf>

³ See UN Human Rights Committee, *Concluding observations on the second periodic report of Turkmenistan*, 20 April 2017, CCPR/C/TKM/CO/2, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTKM%2fCO%2f2&Lang=en and UN Committee against Torture, *Concluding observations on the second periodic report of Turkmenistan*, 23 January 2017, CAT/C/TKM/CO/2, available at

Enforced disappearance is defined in the International Convention for the Protection of All Persons from Enforced Disappearances as: “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law”. Enforced disappearance – which is specifically prohibited as a crime under international law – also violates a range of other human rights, including freedom from arbitrary detention, the right to recognition as a person before the law, the right to an identity; the right to a fair trial and to judicial guarantees; and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, and ultimately, the right to life. Victims’ families are denied the right to know the truth about an enforced disappearance and the right to an effective remedy. The uncertainty faced by relatives unable to learn the truth about their loved ones has been held in itself to constitute a form of torture.⁴

Rare news coming from inside Turkmenistan about the cases of the disappeared do not alleviate families’ suffering or strengthen their hope to see their loved ones alive and well. Just this year, the bodies of three former senior state officials, who were forcibly disappeared following their arrest and criminal prosecution in the previous decade, were delivered to their relatives from prisons. Turkish Tyrmyev reportedly died on 13 January; Bairam Khasanov died in May; and on 18 August, the Russian NGO Human Rights Centre Memorial reported that Akmurad Redzhepov had died on 10 August.

Turkmenistan must end its culture of impunity and reveal the whereabouts of all those forcibly disappeared and still missing.

Story of Tatyana Shikmuradova

Tatyana Shikmuradova has been relentless in her quest to discover what happened to her husband. Boris Shikmuradov, former Turkmenistani Minister of Foreign Affairs, went missing in December 2002. On 30 December 2002, she saw him for the last time on national TV confessing to crimes which many believe he did not commit. Since then there has been no official information about his whereabouts. Tatyana Shikmuradova has written countless letters, joined different actions and campaigns, and written repeatedly to the Turkmenistani authorities. Finally, she brought her case to the United Nations Human Rights Committee, and in 2014, the UN Human Rights Committee considering her complaint on behalf of her husband, found a violation of Tatyana Shikmuradova’s rights under Article 7 (prohibition of torture and other cruel, inhuman or degrading treatment) of the International Covenant on Civil and Political Rights while “not[ing] the anguish and distress caused by the incommunicado detention and disappearance of her husband”.⁵

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fTKM%2fCO%2f2&Lang=en.

⁴ See for instance UN Human Rights Committee, “El-Megreisi v Libyan Arab Jamahiriya”, Communication No. 440/1990, UN Doc. CCPR/C/50/D/440/1990 (1994); Rafael “Mojica v. Dominican Republic”, Communication No. 449/1991, UN Doc. CCPR/C/51/D/449/1991 (1994). The UN Human Rights Committee ruled specifically on enforced disappearance as a form of torture in Sri Lanka in “Sarma v Sri Lanka”, Views, 31 July 2003, para. 9.5.

⁵ Human Rights Committee, *Communication No. 2069/2011*, 19 January 2015, CCPR/C/112/D/2069/2011,

Tatyana Shikmuradova described what she has done in order to receive official information about her husband's whereabouts:

"Long years of attempts to find out at least something about the fate of my husband has taught me to avoid unofficial information of any kind. At first, any mention of his name would literally lead me into a state of either extreme joy, indignation, or tragic hopelessness. I have learned, when possible, not to react to rumours that my husband is alive, or long gone. Otherwise, I would have gone mad. I seek to receive official information, and nobody can convince me that this is hopeless.

Immediately following the announcement of the sentence, I started to search for an opportunity to receive not only information about the location and condition of my husband, but also documents: a copy of the sentence and other documents that, as his closest relative, I would be eligible to see. This became necessary when my husband's government-provided lawyer stopped attending court sessions. He was only present for the announcement of the sentence, after which he refused to communicate with members of our family. ... Neither in the past, nor in the present, had I seen any official documents, as a result of which I have not been able to receive legal support in challenging my husband's punishment (a life sentence)...

I completely understood, that I would also be unlikely to receive a response from Turkmenistan. However, throughout this entire time I regularly sent letters to the President, the Prosecutor General, the Turkmenistani Minister of Justice, the Ambassador for Turkmenistan in the Russian Federation. At first, I did this every month. I would ask for the location and health condition of my husband to be disclosed, and would also ask to receive the requested documents...

We [my sons and myself] have also taken part in meetings of the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe [OSCE] a number of times, we met with members of the UN's Working group on Enforced or Involuntary Disappearances twice. We keep up constant contact with the international campaign "Prove They Are Alive", helping, as much as we can, to provide more accurate and complete information about the victims of enforced disappearances in Turkmenistani prisons."

Continuing practice of enforced disappearances

"I am tired mentally and physically. Not knowing is taking away my last strength."

Daria Atdaeva, the wife of Annamurad Atdaev, disappeared since January 2017

Amnesty International is gravely concerned that dozens of people have been subjected to enforced disappearances since the November 2002 events.⁶

available at <http://juris.ohchr.org/Search/Details/1907>.

⁶ The September 2017 list of the international campaign *Prove They Are Alive* gives 112 names of those who are currently disappeared in Turkmenistan: <https://provetheyarealive.org/the-disappeared/>

Annamurad Atdaev's relatives have not seen him for almost a year. The last time they caught a glimpse of him was on his way to a court room. On 27 September 2016, Annamurad Atdaev⁷ was called for questioning to a temporary detention facility. On that date he was sentenced to 15 days administrative arrest on charges of minor hooliganism, a further 30 days of arrest was later added. After his administrative arrest had ended, Annamurad Atdaev was charged with criminal involvement in an extremist Islamic group and a plot to overthrow the government. On 13 December 2016, the Ashgabat City Court sentenced him to 15 years of imprisonment in a strict security colony under the Turkmenistani Criminal Code Article 174, Part 1 ("Conspiracy to seize power"); Article 175, Part 2 ("Calls to violent change of the constitutional order"); Article 177, Part 1 ("Inciting social, ethnic or religious hatred"); and Article 275, Part 1 ("Creating an organised criminal group"). His trial violated international fair trial standards, including access to an independent lawyer of one's own choice. His relatives were not informed about the hearing beforehand and were not allowed inside the courtroom, nor were they told where he was to serve his sentence.

In January 2017, there were reports that he had been moved to a maximum security prison, Ovadan-Depe. In April 2017, his wife, Daria Atdaeva, with the help of human rights defenders sent a complaint to the UN Working Group on Enforced or Involuntary Disappearances.

Daria Atdaeva shared her story with Amnesty International:

"I have been doing everything in my power [to find out the fate of my husband]. Unfortunately, there is no result yet. I have contacted the Human Rights Centre Memorial (Russian NGO), we have also sent a complaint to the UN Working Group on Enforced or Involuntary Disappearances, and an appeal to Red Cross. In September 2017, I attended OSCE's Human Dimension Implementation Meeting, where I shared my story.

No one has contacted me directly. I have attempted to initiate a dialogue with the government of Turkmenistan: I sent a letter to the Prosecutor General of Turkmenistan, to the penal correction department, but Turkmenistani authorities have refused to tell me where my husband is."

The case of Annamurad Atdaev demonstrates that agents of the government of Turkmenistan continue to perpetrate enforced disappearances.

When asked what she would have said to her husband, Daria Atdaeva said *"I would have said that we love him and we are waiting for him. That he is the best husband and father in the world. I would want to tell him many things, a lot has happened during this time. The main thing that I would have told him is that I would fight for his freedom until the*

⁷ A 31-year old Annamurad Atdaev went to university in Belarus, where he became interested in religion. He later moved to Egypt, where he learned Arabic and went to study in the University of Al-Azhar. In March 2016, he travelled to Turkmenistan to renew his passport. Subsequently, he was interrogated by the Turkmenistan's Ministry of National Security and has been issued with a travel ban.

end, so that he would not despair. We will definitely be together ... I will fight until the end, until I see him with the family alive and well."

Turkmenistan's international obligations

Enforced disappearance is a crime under international law which all states have an obligation to investigate and prosecute.⁸ No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.⁹

Turkmenistan is bound by its obligations under international law, including under the International Covenant on Civil and Political Rights (ICCPR) to conduct prompt, thorough, effective, independent and impartial investigations into alleged enforced disappearance by state forces, to punish perpetrators and to provide and enforce effective remedies for victims. Thus, the Turkmenistani authorities must ensure that prompt, thorough, independent and impartial criminal investigations are conducted into alleged disappearances and other human rights violations. In addition, the authorities must ensure that victims of enforced disappearance, including their families, are provided with full and effective reparation to address the harm they have suffered, including restitution, compensation, and rehabilitation.

Background information

Events of November 2002 and subsequent trial of "traitors to the motherland"

On 25 November 2002 according to the authorities, opposition supporters carried out an armed attack on the then President of Turkmenistan Saparmurad Niyazov's motorcade in the capital Ashgabat in an attempt to assassinate him and to "overthrow the constitutional order". The alleged assassination attempt left the then President unharmed and led to a new wave of repression. The investigation into the alleged attack and the subsequent trials have been marred by serious human rights violations.

At least 59 people were convicted in unfair trials between December 2002 and January 2003, including Boris Shikhmuradov, Foreign Minister from 1995 until 2000, his brother Konstantin Shikhmuradov, and Batyr Berdyev, Foreign Minister from 2000 until 2001 and a former representative of Turkmenistan to the Organization for Security and Co-operation in Europe. They received sentences ranging from five years to life imprisonment for their alleged involvement in the assassination attempt. Many of them were labelled "traitors to the motherland". In most cases the charges brought included "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". Boris Shikhmuradov was sentenced to 25 years' imprisonment in a closed trial on 29

⁸ Article 14 of the Declaration on the Protection of All Persons from Enforced Disappearance states: "Any person alleged to have perpetrated an act of enforced disappearance in a particular state shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial".

⁹ Article 1(2), International Convention for the Protection of All Persons from Enforced Disappearance. Article 34 and 35 of the Convention provides the Committee on Enforced Disappearance, its treaty body, with powers to investigate instances of enforced disappearance occurring on a widespread or systematic basis and to refer it to the UN Secretary General in certain circumstances.

December 2002. The People's Council (Khalk Maslakhaty, the highest representative body with legislative powers during President Saparmurad Niyazov times) reportedly increased his sentence to life imprisonment the next day. His brother Konstantin Shikhmuradov was sentenced to a prison term of 17 years and Batyr Berdyev was sentenced to 25 years' imprisonment.

Amnesty International received reports that many of those accused of involvement in the alleged assassination attempt, as well as their relatives were subjected to torture, other ill-treatment and psychological pressure. Such pressure was reportedly aimed at forcing the detainees to "confess" to their involvement in the attack, to incriminate others or to disclose the whereabouts of people wanted by the police. Several detainees were pressurized to "confess" publicly or to publicly denounce their parents. Batyr Berdyev's and Boris Shikhmuradov's televised "confessions" were broadcast on 18 and 29 December 2002 respectively. Reportedly, defendants who were convicted in a series of closed trials were not represented by independent lawyers. 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 of their criminal case and the indictment, without being given the chance to study these documents. Reportedly, many detainees have been denied appropriate medical treatment. No independent investigations have been carried out into any of these allegations. Representatives of embassies and international organizations were not given access to any of the court hearings.

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