

Amnesty International

Continuing Human Rights Concerns in Turkmenistan

INTRODUCTION

In light of the upcoming round of the EU-Turkmenistan Human Rights Dialogue in June 2010, Amnesty International would like to provide background information on key human rights challenges currently persisting in Turkmenistan.

This document highlights recent cases that are illustrative of Amnesty International's concerns about failures of the authorities in Turkmenistan to respect and protect the rights guaranteed in the ICCPR and supplements previous publications on the respective cases.

While Amnesty International notes recent reforms of the criminal code, in particular the reduction of maximum sentences from 25 years to 15 years and the introduction of fines as an alternative to imprisonment, the submission of Turkmenistan's initial reports to the UN Committee against Torture and the UN Human Rights Committee since the country's accession to the conventions in 1999 (Convention against Torture) and 1997 (International Covenant on Civil and Political Rights, ICCPR), serious human rights concerns remain unaddressed. President Gurbanguly Berdimukhamedov has not lived up to his human rights pledges when he took office on 14 February 2007 by swiftly ending enforced disappearances, releasing prisoners of conscience, ensuring fair trials, putting an end to torture or other ill-treatment, and lifting restrictions on freedom of expression of journalists, civil society activists, and on freedom of religion.

Many of the individuals, whose cases are described in this document, are still awaiting justice and new cases are emerging of individuals subjected to human rights violations for their perceived opposition to the government. The whereabouts of dozens of victims of forced disappearance in 2002 remained unknown. Prisoners of conscience continue to be imprisoned for peacefully expressing their beliefs. Freedom of expression, association, religion and movement continue to be restricted.

Amnesty International is particularly concerned that Turkmenistan remains closed to international scrutiny. No independent organization has been granted access to carry out research. A request by the UN Special Rapporteur on Torture to visit Turkmenistan has been pending since 2003. The UN Working Group on Arbitrary Detention has also requested a visit to the country, but to date has not been granted access.

Taking action to protect the human rights of the individuals described below would also be an important first step by the government towards implementing key recommendations made during the United Nations' Universal Periodic Review of Turkmenistan in December 2008. Among the 19 recommendations out of 43 recommendations arising from this review which were supported by the government of Turkmenistan were calls to:

- ensure that everyone is entitled to a fair trial;
- ensure the right to seek, receive and impart information and ideas;
- act against any form of harassment and intimidation of journalists;
- ensure that members of civil society are allowed, free of harassment, to meet with representatives of foreign media, governments and international organizations;
- ensure the right to freedom of religion;
- fully respect the right to be free to leave and return to one's own country;
- cooperate with UN bodies and special procedures.

REPRESSION OF DISSENT

Human rights defenders and other independent civil society activists are unable to operate openly in the country. Opposition parties do not exist. Many opposition activists live in exile. All printed and electronic media remain under state control. According to the Turkmen Initiative of Human Rights (TIHR) all Turkmen citizens are “prohibited from subscribing to all print media published abroad. The right to subscribe to a restricted number of foreign newspapers and journals was solely granted to ministries, departments and some governmental organizations.” The authorities continue to block websites run by exiled members of the opposition and dissidents and use of the internet is monitored and filtered by the government-owned main service provider. Journalists working with foreign independent media outlets were harassed and detained by law enforcement and national security service officials. The authorities continue to put pressure on journalists, their families and family members of exiled opposition members by putting them on a “black list” of people barred from leaving the country. Turkmenistani human rights organizations in exile have highlighted that the fear of harassment results in self-censorship by journalists and media outlets.

*According to the Radio Free Europe/Radio Liberty (RFE/RL) News Service, Osmankuly Khallyev, correspondent of RFE/RL in Lebap province, was subjected to harassment by local governmental officials because of his work for RFE/RL News Service. In January 2009, after his coverage of the parliamentary elections in December 2008, he was allegedly subjected to such strict surveillance of his movements by law enforcement officials that he was too afraid to leave his house. He told RFE/RL that his son, his daughter-in-law and son-in-law were dismissed from their jobs, as a punishment for their relative's co-operation with RFE/RL. Osmankuly Khallyev reported that in January 2009 he complained about these actions to the local Prosecutor's Office, but did not receive a response.

*On 15 November 2009, Ovez Annaev died of at the age of 46 after being denied permission to travel to Moscow for treatment not available in Turkmenistan, for his heart disease. He and other members of his family were barred from leaving the country after his brother-in-law, Khudayberdy Orazov, exiled leader of the opposition movement Vatan (Motherland), was sentenced to life imprisonment in his absence for his alleged involvement in the armed attack on former President Niyazov in November 2002.

By repressing dissent the Turkmenistani government does not ensure respect and does not protect the human rights of political dissidents, religious believers, independent civil society activists and journalists, as set forth in the UN Declaration on Human Rights Defenders, and breaches its human rights obligations under Article 19 of the ICCPR.

FREEDOM OF MOVEMENT

Amnesty International is also concerned that despite the government's denial of the existence of a “black list”, individuals have been denied permission to leave the country.

*According to RFE/RL News Service, in September 2009 dozens of students were refused permission by the Turkmenistani authorities to continue their studies at the American University of Central Asia (AUCA) in Bishkek, Kyrgyzstan, due to newly introduced document requirements to seek permission to leave the country. Subsequently, their enrolment was transferred to a similar institution, the American University of Bulgaria but in October, the students were prevented from boarding planes to Bulgaria. Two other ex-AUCA students found out that they were barred from leaving the country when they wanted to travel to Uzbekistan. The border guards told them that their names were on the “black list” and that for the next five to seven years they are not allowed to leave the country.

This is in violation of Article 12 of the ICCPR that guarantees freedom of movement, choice of residence and an individual's right to “leave any country, including his own”.

ENFORCED DISAPPEARANCES

The authorities continue to withhold information from relatives and the public regarding the whereabouts of dozens of people who were convicted following the armed attack on former President Saparmurad Niyazov in November 2002. Since then their whereabouts remain unknown, and their families don't know if their relatives are alive or dead. Letters from their relatives to various governmental officials remained unanswered.

*The whereabouts of Boris Shikhmuradov, Minister of Foreign Affairs under President Saparmurad Niyazov, and his brother, Konstantin Shikhmuradov, remain unknown. Boris Shikhmuradov was sentenced to 25 years' imprisonment in a closed trial in December 2002, increased the following day to life imprisonment by the People's Council, an institution abolished in 2008. Konstantin Shikhmuradov was sentenced to 17 years' imprisonment.

Boris Shikhmuradov's family have had no news of him since his imprisonment. His wife has written repeatedly to government officials, but has not received a response. In September 2007, during a visit to Columbia University in the USA, President Berdymukhamedov was quoted as saying he was "positive" that Boris Shikhmuradov was alive. This continues to be the only information about his fate since his life sentence was imposed.

PRISONERS OF CONSCIENCE

*On 6 November 2009, environmentalist Andrei Zatoka was released after he paid a fine of 1,000 manat (about US\$350). On 29 October 2009, he had been sentenced to five years' imprisonment for the intentional infliction of medium injuries after an unfair trial. He told Amnesty International that his release was under condition that he renounced his Turkmen citizenship and left the country.

Andrei Zatoka's conviction by the Dashoguz City Court had been based on an investigation which was neither effective nor thorough. Amnesty International believes that he was targeted because of his peaceful work as an environmental activist, and considered him to be a prisoner of conscience.

On 6 November 2009, Andrei Zatoka's case was reconsidered by the Dashoguz Regional Court. The Court ruled that at his trial, Dashoguz City Court had not given due regard to mitigating factors such as his environmental activity and his reputation as a scientist. Subsequently, his prison sentence was commuted to a fine and he was released, but he told Amnesty International that his release was under condition that he would renounce his Turkmen citizenship and leave the country. After paying the fine, he and his wife had to leave Turkmenistan for Russia on 7 November with only a few belongings, and fearing that the government would confiscate his freehold apartment.

*Amnesty International also remains concerned about the cases of human rights defenders Annakurban Amanklychev and Sapardurdy Khadzhiiev who were sentenced in August 2006, after an unfair trial, to seven years' imprisonment for illegal possession or sale of ammunition or firearms. They were detained in June 2006, along with human rights defender and *Radio Free Europe/Radio Liberty* journalist Ogulsapar Muradova, who was sentenced in the same trial to six years' imprisonment for "illegal acquisition, possession or sale of ammunition or firearms". Ogulsapar Muradova died in custody in disputed circumstances in September 2006. Amnesty International believes that the charges had been fabricated to silence their activities as human rights defenders. All three were associated with the NGO Turkmenistan Helsinki Foundation. The Organization for Security and Cooperation in Europe (OSCE) reported in August 2006 that Turkmenistani government sources had admitted that Annakurban Amanklychev was detained for "illegal collection of information in order to encourage public dissatisfaction" and for "transmitting materials to foreign citizens". Relatives of Annakurban Amanklychev allegedly are only permitted to visit him in prison and give him parcels twice per

year. Sapardurdy Khadzhiev's relatives reported that they are only allowed one visit with a parcel per year.

Amnesty International adopted the three as prisoners of conscience, believing that they were targeted because of their human rights activities, and calls for the immediate and unconditional release of Annakurban Amanklychev and Sapardurdy Khadzhiev. The authorities continue to refuse to open an independent investigation into Ogulsapar Muradova's death in detention. Amnesty International was told that the attitude of authorities is that her death occurred under the former President and is not a concern of the current administration.

CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

According to Forum 18, two young Jehovah's Witnesses, Shadurdi Ushotov and Akmurat Egendurdiev, were sentenced in July 2009 to two years and 18 months respectively in a labour camp, for refusing compulsory military service.

In November 2008, Sakhetmurad and Mukhammedmurad Annamamedov, both Jehovah's Witnesses, had been sentenced to two years' imprisonment on parole for refusal to carry out military service. In May 2009 they were called to their local military conscription office, allegedly to receive an amnesty. Instead, according to Forum 18, they were brought to a closed court hearing where the same judge who had initially handed out a non-custodial sentence in November 2008 ruled that both of them should be imprisoned for the remaining one and a half years of their sentence. Reportedly, their father was denied access to the court, and neither Sakhetmurad and Mukhammedmurad Annamamedov nor their family received a copy of the court judgement.

Navruz Nasyrlaev, an 18-year-old Jehovah's Witness and conscientious objector, was sentenced in December 2009 to two years' imprisonment for refusing compulsory military service on religious grounds. Another two, Zafar Abdullaev and Dovran Kushmanov, were serving non-custodial sentences as of May 2010.

Turkmenistan still fails to provide for a civilian alternative to military service. Military service is compulsory for all Turkmenistani male citizens aged 18-30. "Evasion of call-up to military service" is punished by a maximum penalty of two years under Article 219, part 1, of the Criminal Code of Turkmenistan.

In its January 2010 report to the UN Human Rights Committee, Turkmenistan refers to alternative military service only once, in order to dismiss it: "The laws of Turkmenistan make no provision for alternative service" (para 337).

The right to refuse military service for reasons of conscience is inherent in the right to freedom of thought, conscience and religion as laid down in the ICCPR, to which Turkmenistan is a party. The body responsible for monitoring the ICCPR, the Human Rights Committee, ruled in November 2006 that the prosecution and conviction of two conscientious objectors by the authorities in Korea, for their refusal to perform compulsory military service, had breached Article 18 of the ICCPR as no civilian alternative was available.

RECOMMENDATIONS

Amnesty International calls on the authorities of Turkmenistan to:

- agree to a visit of the UN Special Rapporteur on Torture and to the UN Working Group on Arbitrary Detention;
- respect and protect the human rights of independent civil society activists and journalists, ensuring that they are able to carry out their peaceful work free from harassment and without threat of detention and imprisonment and other human rights violations;
- lift the travel restrictions imposed on civil society activists, journalists, their families and other citizens and allow individuals to exercise their right to freedom of movement;
- publicly condemn enforced disappearance under any circumstances and commit to ending the practice;
- reveal the fate and whereabouts of all persons who have been subjected to enforced disappearance, including Boris and Konstantin Shikhmuradov, without delay;
- ensure that Boris Shikhmuradov, and Konstantin Shikhmuradov, as well as others sentenced to long-term imprisonment in unfair trials following the November 2002 events, are retried in proceedings which meet international standards of fairness and to which international trial observers have access;
- conduct a thorough and independent investigation into the cause of death in custody of Ogulsapar Muradova in September 2006, to keep her relatives informed of all steps of the investigation and to make the results public;
- promptly and unconditionally release prisoners of conscience, Annakurban Amanklychev and Sapardurdy Khadzhiiev, detained for peacefully exercising their right to freedom of expression in defence of human rights;
- ensure the right of Annakurban Amanklychev and Sapardurdy Khadzhiiev's to visits of their families in line with UN Standard Minimum Rules for the Treatment of Prisoners;
- immediately and unconditionally release from prison all conscientious objectors, imprisoned for exercising their right to freedom of thought, conscience and religion, and provide them with a civilian alternative to military service;
- adopt a law that recognizes and guarantees the right to conscientious objection to military service and provides for a genuinely civilian alternative that is not punitive in length.

For further Amnesty International publications on Turkmenistan see:

- *Turkmenistan: Further information: Environmentalist activist released*, 11 November 2009 (Urgent Action, EUR 61/008/2009)
- *Turkmenistan: Andrei Zatoka sentenced in unfair trial*, 5 November 2009 (EUR 61/007/2009)
- *Turkmenistan: Environmentalist arrested in Turkmenistan*, 27 October 2009 (Urgent Action, EUR 61/001/2009)
- *Individuals continue to be at risk of violations in Turkmenistan* (report, EUR 61/001/2009)
- *Turkmenistan: No effective human rights reform* (report, EUR 61/004/2008)