

**Human Rights Committee
Follow-up Procedure:
Turkmenistan**

CCPR/C/TKM/CO/1

Adoption of Concluding Observations: March 2012
Deadline for State party follow-up report: March 2013
Current status: State party follow-up report was submitted in August 2012



Turkmen Initiative for Human Rights and International Partnership for Human Rights

Follow-up Report on Turkmenistan to the United Nations Human Rights Committee*

November 2012

This document has been prepared as a contribution to the Human Rights Committee's follow-up to its March 2012 Concluding Observations on Turkmenistan. It assesses the progress made by the State party with respect to the implementation of the recommendations selected for the follow-up procedure (the recommendations made in paragraphs 9, 13 and 18).

* The report has been prepared in consultation and coordination with the Centre for Civil and Political Rights (CCPR).

SUMMARY TABLE

Recommendations in par. 9	Grade	Overview
Revise the Criminal Code to incorporate a definition of torture in accordance with the Convention against Torture	C	No such definition has been incorporated. The Criminal Code only includes provisions that indirectly penalise ill-treatment, e.g. provisions criminalizing the infliction of physical or moral suffering, abuse of power involving the use of violence, and the use of illegal means to obtain evidence.
Establish an independent oversight body to carry out inspections in all places of detention	C	To our knowledge, there has been no progress in this respect since March, and the Turkmen authorities have failed to put in place an independent and effective mechanism to monitor prison and detention facilities. Serious restrictions continue to be imposed on access to such facilities.
Ensure effective investigations of torture complaints, prosecution and punishment of perpetrators and adequate reparation for victims	C	There has been no positive change in the situation in this regard, and the same basic problems remain: allegations of torture and ill-treatment are not investigated in an independent and adequate way and the perpetrators, as a rule, escape accountability, resulting in widespread impunity for abuse.
Allow visits of international humanitarian organizations to all places of detention	B2	While the authorities have organized a few “familiarization” visits for ICRC representatives to selected detention sites, this organization has not been granted unhindered access to all places of detention, which would enable it to carry out thorough monitoring in correspondence with its basic conditions, including private discussions with detainees of its choice and repeat visits as often as deemed necessary.
Recommendations in par. 13	Grade	Overview
Take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators of corruption, including judges	C	While isolated anti-corruption measures have been taken, there are no indications that the State party has made any systematic efforts (either in the judiciary or elsewhere) to investigate corruption allegations and bring perpetrators to justice.
Safeguard the independence of the judiciary, guarantee tenure of office of judges and sever the judiciary’s ties with the executive	C	The presidential administration continues to dominate all branches of power and judges are arbitrarily appointed and dismissed by the president. Serious concerns remain about the use of the court system to hand down convictions on politically motivated charges in unfair and closed trials.
Recommendations in par. 18	Grade	Overview
Uphold the right of journalists, human rights defenders and others to freedom of expression, and allow international human rights organizations into the country	C	The government continues to enforce its information monopoly with the help of state-controlled media and anyone who openly challenges government policies remain highly vulnerable to intimidation and harassment. International human rights NGOs and UN human rights mechanisms continue to be denied access to the country.
Ensure unrestricted access to the internet	C	Only 5% of the population currently has access to the internet. Costs for internet access remain prohibitive and efforts to promote internet use are lacking. The internet remains heavily censored, and access is blocked to online content that authorities do not like. Internet activity e.g. on online forums is monitored by security services.
Ensure that any restrictions on the right to freedom of expression comply with art. 19§3 of the Covenant.	C	Freedom of expression continues to be restricted in ways that are not consistent with the provisions of the Covenant.

DETAILED ASSESSMENT**Paragraph 9**

The Committee is concerned at increased reports of torture and ill-treatment in places of detention where it is often used to extract confessions from accused persons, and the lack of an independent body to investigate abuse by law enforcement officers and to conduct regular visits to prisons and other places of detention. The Committee also expresses concern at the lack of a definition of torture in the State party's legislation. The Committee is further concerned that access to places of detention is denied to international human rights monitors (art. 7).

Recommendation of the Human Rights Committee	Grade	Assessment of the current situation	Additional measures needed by the State party
<p>The Committee recommends that the State party:</p> <p>(a) Revise its Criminal Code in order to incorporate a definition of torture that is in line with the definition under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;</p>	C	<p>Turkmenistan's Criminal Code still does not contain any provisions that specifically define and provide for liability for "torture." The Code only includes provisions that indirectly penalise such treatment, e.g. provisions criminalizing the infliction of physical or moral suffering (article 113), abuse of power involving the use of violence (articles 182, 358), and the use of threats, violence and other illegal means to obtain information from individuals suspected or charged with crimes, witnesses etc. (article 197).</p>	<p>The State party should take adequate measures to implement the recommendation made by the Committee.</p>
<p>(b) Take appropriate measures to put an end to torture by, inter alia, establishing an independent oversight body to carry out independent inspections and investigations in all places of detention of alleged misconduct by law enforcement officials;</p>	C	<p>To our knowledge, there has been no progress in this respect since March, and the Turkmen authorities have failed to put in place an independent and effective mechanism to monitor prison and detention facilities.</p> <p>The State party mentions (p. 5) the existence of monitoring and supervisory commissions created under a 2010 presidential decree at the level of national, regional and local authorities to participate in the oversight of prison authorities and to work with prisoners and individuals released on parole, without giving any details about the composition or role of these commissions. During the Human Rights Committee review in March, a representative of the Turkmen delegation referred to a commission charged with reviewing complaints from prisoners that was said to consist of representatives of "non-governmental organizations, unions, democratic parties and local authorities."¹ We have no information about the commissions mentioned by the State party and would encourage the Committee to request additional information about them. However, even if these commissions would comprise other members in addition to government officials, we have serious doubts that they may be able to play any independent or effective role in monitoring prison conditions in the current situation, where the government</p>	<p>See above.</p>

¹ Human Rights Committee notes Turkmenistan's 'New willingness' to improve human rights record, but says gap remains between legal framework, implementation", General Assembly, Human Rights Committee, 104th Session, 16 March 2012, at <http://www.un.org/News/Press/docs/2012/hrct743.doc.htm>

		<p>continues to promote GONGOs in place of real NGOs and treats the formally established multi-party system as another government outlet. These concerns are further reinforced by the serious restrictions that continue to be imposed on access to detention and prison facilities in the country. We believe that the Committee should insist that the State party grants truly independent national and international bodies access to all detention and prison facilities.</p>	
<p>(c) (...) The State party should also ensure that allegations of torture and ill-treatment are effectively investigated, and that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims receive adequate reparation; and</p>	C	<p>To our knowledge, there has been no positive change in the situation in this regard, and the same basic problems remain: allegations of torture and ill-treatment are not investigated in an independent and adequate way and the perpetrators, as a rule, escape accountability, resulting in widespread impunity for abuse.</p> <p>As Turkmenistan remains a repressive and closed society, where human rights monitoring cannot be openly conducted, it is extremely difficult to obtain information about issues such as detention conditions and torture and ill-treatment. TIHR and other Turkmen civil society groups in exile are only able to obtain limited information thanks to contacts inside of the country who put themselves at risk to provide it. However, available information indicates that the use of torture and ill-treatment is a serious problem in both pre-trial detention facilities and prisons and that only a few law enforcement officials have been held accountable for abuse in the past decade.</p> <p>The State party claims in its follow-up report (p. 4) that “impartial” and “exhaustive” investigations are conducted in cases where law enforcement officials are suspected of torture and ill-treatment, but it does not provide any evidence of how this is done. There are also no indications that the Turkmen authorities have taken any effective measures to enhance efforts to investigate and punish torture and ill-treatment in response to the recommendation made by the Committee. The lack of such efforts is highlighted by the failure of the Turkmen authorities to elaborate a specific Criminal Code article on torture and ill-treatment (as discussed above).</p>	<p>See above.</p> <p>In addition, the State Party should provide detailed statistics about the number of individuals who have been prosecuted and convicted on charges relating to ill-treatment against detainees and prisoners in recent years.</p>
<p>(d) Allow visits by recognized international humanitarian organizations to all places of detention.</p>	B2	<p>According to official information (p. 5-6 in the State party report), on two occasions in 2011-2012, visits have been organized for International Committee of the Red Cross (ICRC) delegates to “acquaint” themselves with a selected detention facility, as well as the construction site of a new women’s prison. However, the ICRC has not been granted unhindered access to the country’s detention facilities, which would enable it to carry out thorough monitoring in correspondence with its basic conditions, including private discussions with detainees of its choice and repeat visits as often as deemed necessary. While the ICRC has not made public any conclusions from the limited visits carried out in Turkmenistan consistent with its</p>	<p>The State party should grant the ICRC, as well as other independent international organizations unrestricted access to all the country’s detention facilities.</p>

	<p>general policy, an ICCPR representative was quoted in media as saying that delegates were not able to hold private meetings with inmates during either visit.² The circumstances of the visits give rise to the suspicion that the Turkmen authorities may have sought to use them for PR purposes rather than as actual opportunities to improve detention conditions.</p> <p>No other independent international organizations have been allowed to visit any detention facilities in the country.</p>	
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Paragraph 13

The Committee expresses concern at reports that corruption is widespread in the judiciary. The Committee also expresses concern at the lack of an independent judiciary in the State party particularly with regard to tenure of office since judges are appointed by the President for renewable terms of five years. The Committee is concerned that this lack of security of tenure has the effect of exerting undue influence by the executive on the administration of justice in the State party (arts. 2 and 14).

Recommendation of the Human Rights Committee	Grade	Assessment of the current situation	Additional measures needed by the State party
The State party should take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators, including judges who may be complicit.	C	<p>Isolated measures to counteract corruption have been reported, such as in connection with the organization of entrance exams to higher education institutions in August this year.³ However, there are no indications that the State party has made any systematic efforts to investigate corruption allegations and hold perpetrators accountable, either in the judiciary or elsewhere, in response to the Committee’s recommendation.</p> <p>In the most recent version of Transparency International’s Corruption Perceptions Index, Turkmenistan was given the third last place among 183 countries with a score of 1.6 on a scale from 0-10 (where 0 represents the highest and 10 the lowest level of corruption).⁴ This indicates that corruption is deeply penetrated in the country’s public sector and that effective anti-corruption efforts are badly missing. According to Freedom House, Turkmenistan’s “patronage networks have given rise to a political culture of bribery, nepotism, and embezzlement,” and corruption is retained as a “fundamental part of the informal political system.”⁵</p>	The State party should acknowledge the serious level of corruption in the country and take robust and effective measures to eradicate it, including by ensuring transparency, accountability and oversight throughout the public sector and by systematically investigating corruption allegations and bringing perpetrators to justice.
The State party should take all necessary measures to safeguard the	C	The constitutional principle of separation of powers is not enforced in Turkmenistan, and the presidential administration continues to dominate all branches of power.	The State party should take adequate measures to implement

² Radio Free Europe/Radio Liberty, “Red Cross Visits Turkmenistan,” 10 April 2012, at http://www.rferl.org/content/red_cross_visits_turkmenistan/24543440.html

³ Surveillance cameras were installed in the rooms where exams were held with a view to preventing that students were admitted on the basis of bribes rather than their academic performance. See TIHR news release, “Entrance exams: video cameras, skullcaps and the Rukhnama,” 12 August 2012, at <http://www.chrono-tm.org/en/archives/592>

⁴ Transparency International, *Corruptions Perception Index 2011*, http://www.transparency.org/whatwedo/pub/corruption_perceptions_index_2011

⁵ Freedom House, *Nations in Transit 2012*, <http://www.freedomhouse.org/report/nations-transit/2012/turkmenistan>

<p>independence of the judiciary by guaranteeing their tenure of office, and sever the administrative and other ties with the Executive Office.</p>	<p>Thus, contrary to the assertions of the State party (p. 10 of its follow-up report), the country's judiciary is not independent. According to our information, judges continue to be appointed and dismissed by the Turkmen president without any legislative review. Serious concerns remain about the use of the court system to hand down convictions on politically motivated charges in unfair and closed trials. Unknown numbers of individuals continue to serve prison sentences on such charges (the secrecy surrounding trials and imprisonments makes it impossible to determine even an approximate number of victims). Former Foreign Minister Boris Shikhmuradov and dozens of other individuals who were convicted and given lengthy prison sentences in show trials held after the purported November 2002 assassination attempt on late President Saparmurad Niyazov remain disappeared.</p> <p>During the Human Rights Committee review in March 2012, a representative of the Turkmen delegation indicated that "selected" individuals whose cases have been the subject of international concern have been released from prison in the last two years. However, he did not provide any further details, except that those released include former Turkmen Parliament Speaker Ovezgeldy Ataev and his spouse, who were both imprisoned for allegedly encouraging their daughter-in-law to commit suicide shortly after Niyazov's death in 2006. This appeared to be an attempt to prevent Ataev from assuming the role of Acting President in the period leading up to new presidential elections, as he should have done in accordance with the Constitution. Our organizations have no further information about the current whereabouts of this couple.</p>	<p>the recommendation made by the Committee.</p> <p>It should also ensure that the country's courts are not used to punish individuals for politically motivated purposes in unfair trials. It should immediately release all individuals who are currently imprisoned on such grounds and investigate all cases of alleged enforced disappearances in an independent and thorough manner.</p>
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Paragraph 18

The Committee expresses concern at reports that the State party systematically does not respect the right to freedom of expression. The Committee, in particular, expresses concern at reports of the harassment and intimidation of journalists and human rights defenders in the State party, and its refusal to grant entry visas to international human rights organizations. The Committee is also concerned at allegations that the State party monitors the use of the Internet and blocks access to some websites (art. 19).

<p>Recommendation of the Human Rights Committee</p>	<p>Grade</p>	<p>Assessment of the current situation</p>	<p>Additional measures needed by the State party</p>
<p>The State party should ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression in accordance with the Covenant, and also allow international human rights organizations into the country.</p>	<p>C</p>	<p>Turkmenistan's media remain tightly controlled by the government and continue to be used as means of ideological propaganda. There are no independent media in the country. Government-controlled organizations are promoted in place of independent civil society groups, and the process of establishing two new political parties, alongside the pre-existing presidential one, has been carried out under the auspices of the presidential administration. This has given rise to serious doubts that the new parties will be advocating any independent positions rather than just serving as instruments to create the impression of political pluralism.</p>	<p>The State party should take adequate measures to implement the recommendation made by the Committee.</p>

	<p>As previously, those few local journalists who contribute to independent foreign media, civil society activists and other members of civil society who dare to openly challenge official policies remain highly vulnerable to intimidation and harassment. In a well-documented pattern, surveillance, interrogations, “blacklists” for travel abroad, and arrests and imprisonments on politically motivated grounds are used to put pressure on critical voices. These are two recent examples that illustrate the vulnerability of those who question government policies:</p> <ul style="list-style-type: none"> • Former Culture Minister Geldimurat Nurmammedov (who served in the government in 1992-95) was arrested on 5 October 2012 in Ashgabat and subsequently forcibly hospitalized in a drug treatment clinic, although he is not known to have had any history of drug abuse. It is believed that this was an act of retaliation for an interview he gave earlier to the Turkmen service of Radio Free Europe/Radio Liberty (which is based abroad), where he criticized the political situation in the country.⁶ Shortly after that interview, which took place in December 2011, his family’s construction company was closed down under unclear circumstances. While Nurmammedov has been held under surveillance and blacklisted from travel abroad ever since he left the government, surveillance was stepped up after the interview. • In late September 2012, local officials and police tried to break into the apartment of civil society activist Natalia Shabunts and threatened her with arrest after she refused to participate in a campaign to replace apartment windows, which local authorities implemented along the Ashgabat street where she lives without consideration of the wishes of those affected.⁷ This incident gives rise to concern in particular as Shabunts, who has repeatedly challenged official policies, has also previously faced intimidation. In February this year a severed sheep’s head was placed outside her door the day after she spoke about the state of democracy and human rights in the country in an interview for the Turkmen service of Radio Free Europe/Radio Liberty. <p>International human rights NGOs have not been permitted access to Turkmenistan and requests made by ten UN human rights mechanisms to visit the country have not been granted, leaving the Special Rapporteur on Religion the only one to have been received by the Turkmen authorities (in 2008).⁸</p>	
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⁶ For more information, see TIHR and IPHR submission to the Human Rights Committee from January 2012, p. 12, http://www.iphronline.org/uploads/9/0/2/7/9027585/rev_submission_to_the_united_nations_human_rights_committee_jan_2012.pdf

⁷ See TIHR new release, «Жителей арестуем, но окна поставим,» 24 September 2012, at <http://www.chrono-tm.org/2012/09/zhiteley-arestuem-no-okna-postavim/>

⁸ Information last updated as of 2 November 2012, at <http://www.ohchr.org/EN/HRBodies/SP/Pages/countryvisitsa-e.aspx>

<p>The State party should ensure that individuals have access to websites and use the Internet without undue restrictions.</p>	<p>C</p>	<p>While the State party claims that “internet services are an accessible source of information for all citizens” (p. 13 of its follow-up report), the internet is still available only to a small fraction of the population, or 5% according to the most recent figure from the International Telecommunications Union.⁹ Internet use is not promoted in schools and other public institutions, no more than 15 internet cafes exist in the country and costs for private internet access remains prohibitive in spite of expectations that rates would decrease following the August 2012 return to the country of the Russian MTS cell phone operator (which was expelled in 2010). Visitors to internet cafes are required to provide ID information and their activities on the internet are monitored by security services.</p> <p>Moreover, the internet remains heavily censored in Turkmenistan. Websites that provide alternative information about the situation in the country such as foreign news sites, NGO sites and sites associated with the exiled opposition are blocked for users. Social network sites are also often inaccessible except through proxy servers and internet forums are held under close surveillance. Most of June 2012 the forum ertir.com, one of the most popular web resources among Turkmen youth, was blocked in Turkmenistan following an increase in posts on politically and religiously related issues on the site.</p> <p>The website of Austria-based Turkmen Initiative for Human Rights (TIHR), which is well-known for its independent coverage of developments in Turkmenistan, has continued to be subjected to hacker attacks. This led the website host to conclude in the summer that all these attacks are “exhausting” its resources. Most recently, TIHR’s site was attacked and disabled for several hours shortly before Turkmenistan’s Independence Day celebrations in late October 2012. While there is no conclusive evidence, there is strong reason to suspect that the Turkmen security services are behind the attacks on TIHR’s site and are using this strategy in an attempt to obstruct the organization’s efforts to report about the situation in Turkmenistan.</p>	<p>The State party should take effective steps to promote internet access, ensuring that access is widely available, affordable and meets reasonable quality standards. It should stop blocking websites simply because they contain information that challenge official policies; put an end to systematic monitoring of internet use; and refrain from any measure that serve to punish or obstruct the free use of the internet, including posting or commenting on information concerning issues of public interest in Turkmenistan.</p>
<p>The Committee, therefore, urges the State party to take all necessary steps to ensure that any restrictions on the exercise of freedom of expression fully comply with the strict requirements of article 19, paragraph 3, of the Covenant as further set out in its general comment No. 34 (2011) on freedoms of opinion and expression.</p>	<p>C</p>	<p>As described above, freedom of expression remains seriously restricted in Turkmenistan and no adequate steps have been taken by the authorities of the country to address problems in this area and ensure compliance with article 19 of the Covenant.</p>	<p>The State party should take adequate measures to implement the recommendation made by the Committee.</p>

⁹ At <http://www.itu.int/ITU-D/ict/statistics/index.html>

Explanation of the grades used:

Grade A: Implementation satisfactory:

A1: Response fully satisfactory

A2: Response partially satisfactory

Grade B: Implementation partially satisfactory:

B1: Implementation partially satisfactory: some progress has been achieved, but additional information is required.

B2: Implementation partially satisfactory: limited progress has been achieved, but considerable additional measures are needed.

Grade C: State response not satisfactory:

C: No measures have been taken by the State party to implement the recommendations.

Brief information about the submitting organizations:

Turkmen Initiative for Human Rights (TIHR) is the successor organisation of the Helsinki Group of Turkmenistan and was registered as an independent association in Vienna in November 2004. Through a network of local experts and activists inside Turkmenistan, the organisation monitors and reports on the human rights situation in this country. It also disseminates independent news, comments and analysis from and about the country.

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International Partnership for Human Rights (IPHR) is a Brussels-based NGO that is committed to empowering local civil society groups and assisting them in making their human rights concerns heard at the international level. In particular, IPHR aims at advancing the rights of vulnerable groups subject to discrimination and abuse through cooperation with local partners.

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