



International Covenant on Civil and Political Rights

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Human Rights Committee

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Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Turkmenistan

1. The Committee considered the initial report submitted by Turkmenistan (CCPR/C/TKM/1) at its 2870th, 2871th and 2872th meetings (CCPR/C/SR.2870, 2871 and 2872), held on 15 and 16 March 2012, and adopted at its 2887th (CCPR/C/SR.2887), held on 28 March 2012, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Turkmenistan and the information presented therein, although the report has been due since 1998. It expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's delegation on the measures that the State party has taken to implement the provisions of the Covenant since its accession to the Covenant in 1997. The Committee appreciates the written replies (CCPR/C/TKM/Q/1/Add.1) to the list of issues, which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the following legislative measures taken by the State party:

- (a) The enactment of the International Treaties Act of 10 May 2010;
- (b) The enactment of the State Guarantees of Women's Equality Act of 14 December 2007;
- (c) The adoption of the Law on Combating Trafficking in Persons on 17 December 2007.

4. The Committee welcomes the ratification by the State party of the following international instruments:

- (a) The Convention on the Rights of Persons with Disabilities, on 4 September 2008;
- (b) The Optional Protocol to the International Covenant on Civil and Political Rights, on 1 May 1997, and the Second Optional Protocol aiming at the abolition of the death penalty, on 11 January 2000;
- (c) The Convention on the Rights of the Child, on 29 April 2005.

C. Principal matters of concern and recommendations

5. While welcoming the accession by the State party to the Optional Protocol to the International Covenant on Civil and Political Rights and the State party's commitment to implement the Committee's Views adopted under its individual complaints procedure, the Committee is concerned at the lack of a mechanism in the State party to implement the Committee's Views as well as at the present non-satisfactory degree of implementation of the Views of the Committee concerning complaints related to the State party (art. 2).

The Committee urges the State party to implement the Views of the Committee and to establish a mechanism with a mandate to implement the Views adopted by the Committee concerning the State party. In this regard, the State party should include in its second periodic report information on the measures that the State party has taken to implement the Committee's Views in all communications in which the Committee has found a violation of the rights under the Covenant.

6. While noting that international human rights treaties ratified and promulgated by the State party take precedence over national laws, the Committee is concerned that none of the provisions of the Covenant have been invoked before national courts since the accession of the State party to the Covenant (art. 2).

The State party should take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account before and by national courts.

7. While noting the establishment of the National Institute for Democracy and Human Rights (NIDHR), which has the mandate to act as a national human rights institution, the Committee is concerned that the NIDHR, as a part of the President's office, is not independent (art. 2).

The State party should establish a national human rights institution that can implement its mandate independently and in full accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

8. The Committee expresses concern that women remain underrepresented in both the public and private sectors, particularly in decision-making positions. The Committee is also concerned at the prevalent negative stereotypes regarding the roles of women in society, which is partly perpetuated by the Labour Code that is overly protective of the traditional roles of women in society (arts. 2, 3 and 26).

The State party should strengthen its efforts to increase the participation of women in the public and private sectors and, if necessary, through appropriate temporary special measures to give effect to the provisions of the Covenant. The State party should revise its Labour Code to eliminate the prevailing negative stereotypes against women that restrict their participation in public life, particularly in the employment sector.

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).

The Committee recommends that the State party:

(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;

(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;

(c) Ensure that law enforcement personnel continue to receive training on the prevention of torture and ill-treatment by integrating the 1999 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) in all training programmes for law enforcement officials. 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

(d) Allow visits by recognized international humanitarian organizations to all places of detention.

10. The Committee is concerned at reports that a number of individuals who were convicted in December 2002 and January 2003 for their alleged involvement in the assassination attempt on the former President in November 2002 continue to be held incommunicado (arts. 7, 9 and 10).

The State party should take concrete measures to put an end to the practice of incommunicado detention and imprisonment. The Committee urges the State party to immediately make known the whereabouts of those convicted for allegedly attempting to assassinate the former President and allow visits from members of their families and access to their lawyers.

11. While noting the adoption in December 2007 of a law to combat trafficking in persons, the Committee regrets reports of cases of human trafficking in the State party (art. 8).

The State party should strengthen its efforts to combat trafficking in human beings by ensuring that efforts are directed towards establishing and dealing with the root causes of trafficking. In this regard, the State party should ensure that all cases of human trafficking are effectively investigated, that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims' human rights are fully respected and vindicated.

12. The Committee is concerned at reports that the State party restricts the exit and entry into the State party by certain individuals who are on the list of individuals under State surveillance. The Committee also regrets that the State party maintains the system of mandatory registration at the place of residence which is a prerequisite for residence, employment, acquisition of real estate and access to health services. The Committee is concerned that this system may interfere with the enjoyment of rights under article 12 of the Covenant (art. 12).

The State party should ensure that restrictions on the movement of individuals within the territory of the State party, as well as the right to exit, and any surveillance programmes for purposes of State security are compatible with the strict requirements of article 12. In this regard, the State party should ensure that the requirement that individuals register their place of residence is in full compliance with the provisions of article 12 of the Covenant.

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).

The State party should take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators, including judges who may be complicit. The State party should take all necessary measures to safeguard the independence of the judiciary by guaranteeing their tenure of office, and sever the administrative and other ties with the Executive Office.

14. While appreciating that under article 125 of the Code of Criminal Procedure evidence obtained through coercion has no legal force, the Committee is concerned at increased reports that judges continue to admit as evidence testimony obtained under torture (arts. 2 and 14).

The State party should ensure that measures are put in place to guarantee, in practice, the exclusion by the judiciary of any evidence obtained under any form of coercion and torture.

15. The Committee is concerned that under the HIV/AIDS Prevention Act of 2001, foreign citizens infected with HIV/AIDS may freely enter the territory of the State party but only for a maximum period of three months. The Committee is also concerned that upon detection of an infection, foreign nationals are deported (arts. 17 and 26).

The State party should revise its legislation to ensure that foreign nationals who enter the territory of the State party enjoy all their rights under the Covenant, particularly to freedom of movement and privacy.

16. The Committee is concerned that the Conscription and Military Service Act, as amended on 25 September 2010, does not recognize a person's right to exercise conscientious objection to military service and does not provide for any alternative military service. The Committee regrets that due to this law, a number of persons belonging to the Jehovah's Witness have been repeatedly prosecuted and imprisoned for refusing to perform compulsory military service (art. 18).

The State party should take all necessary measures to review its legislation with a view to providing for alternative military service. The State party should also ensure that the law clearly stipulates that individuals have the right to conscientious objection to military service. Furthermore, the State party should halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those individuals who are currently serving prison sentences.

17. While noting the plans and efforts by the State party to review its legislation on religious organizations, the Committee is concerned that the Freedom of Religion and Religious Organizations Act provides for the compulsory registration of religious associations and similar entities. The Committee is also concerned that the practice of a religion and the conduct of any religious activities without registration is subject to administrative penalties. Furthermore, the Committee is concerned at reports that the

Freedom of Religion and Religious Organizations Act prohibits private religious education at all levels, and that the State party strictly regulates the number of copies of religious texts that religious organizations may import (art. 18).

The State party should ensure that its laws and practices relating to the registration of religious organizations respect the rights of persons to freely practice and manifest their religious beliefs as provided for under the Covenant. The State party should amend its law to ensure that individuals can freely provide religious education in private at all levels and can import religious texts in quantities they consider appropriate.

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).

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. The State party should ensure that individuals have access to websites and use the Internet without undue restrictions. 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.

19. The Committee is concerned that the Law on Public Associations severely restricts freedom of association in that it, inter alia, provides for the compulsory registration of public associations and contains onerous obligations on associations to report to authorities. The Committee is also concerned that associations undergo cumbersome administrative processes for registration so that in some instances associations are forced to wait for a number of years before they obtain a registration certificate (art. 22).

The State party should ensure that the process of registration of associations complies with article 22, paragraph 2 of the Covenant. In this regard, the State party should reform its system of registration to ensure that registration applications are processed professionally and expeditiously.

20. The Committee is concerned at reports of the use of children for cotton harvesting in the State party (art. 24).

The State party should eliminate the use of children for cotton harvesting and ensure that children are protected from the harmful effects of all forms of child labour.

21. The Committee regrets the criminalization of sexual relations between consenting adults of the same sex, which entails a penalty of up to two years in prison. The Committee is concerned at the deep-rooted stereotypes against individuals on the basis of their sexual orientation or gender identity (art. 26).

The State party should decriminalize sexual relations between consenting adults of the same sex in order to bring its legislation in line with the Covenant. The State party should also take the necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of discrimination against persons based on their sexual orientation or gender identity.

22. The Committee is concerned at the limited access of ethnic minorities to employment in the public sector and in decision-making bodies. The Committee is concerned at reports of the alleged use of a forced assimilation policy of ‘Turkmenisation’, which seriously reduces opportunities for ethnic minorities in the fields of employment, education and political life (arts. 25, 26 and 27).

The State party should strengthen its efforts to promote the participation of minority groups in public life and decision-making bodies by, inter alia, adopting temporary special measures. The State party is requested to provide in its second periodic report data disaggregated by ethnic groups on the representation of minority groups in public office and decision-making positions.

23. The State party should widely disseminate the Covenant, the Optional Protocols to the Covenant, the text of the initial report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The report and the concluding observations should be translated into the official language of the State party.

24. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee’s recommendations made in paragraphs 9, 13 and 18 above.

25. The Committee requests the State party to provide, in its next periodic report due to be submitted on 30 March 2015, specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to broadly consult civil society and non-governmental organizations operating in the country.
