



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Turkmenistan and welcome the constructive engagement of your Government during the 30th session of the UPR Working Group in May 2018.

As the final outcome report on the review of Turkmenistan has been recently adopted by the Human Rights Council at its 39th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Turkmenistan – the Compilation of UN information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying those areas, I have also considered the statements and recommendations made by 74 delegations, the presentation and responses made by the delegation of Turkmenistan and the actions taken by the Government to implement the 167 recommendations it had accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues and appear in the Annex to this letter.

I noted the establishment of the Commissioner for Human Rights (Ombudsperson) following the adoption of a new Constitution in 2016 and of the Ombudsperson Act. I encourage Turkmenistan to intensify its efforts to ensure that the Office of the Ombudsperson effectively functions to promote and protect human rights in Turkmenistan and that the institution fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including the independence of the Office.

I welcome the fact that Turkmenistan has adopted its first National Action Plan for Human Rights for 2016 -2020. I encourage Turkmenistan to strengthen further the national action plan and to effectively implement it in order to ensure that the plan facilitates the achievement of concrete results in the areas contained in the annex and the preparation for the fourth cycle of the UPR. The implementation of the plan should be carried out in consultations and cooperation with all stakeholders, in particular the Commissioner for Human Rights and civil society organisations, and where necessary, the support of international organisations, including the Office of the United Nations of the High Commissioner for Human Rights (OHCHR) and other United Nations entities, under the leadership of the UN Resident Coordinator.

H.E. Mr. Raşit MEREDOW
Minister of Foreign Affairs
Turkmenistan

I encourage Turkmenistan to make efforts to strengthen its national mechanism for comprehensive reporting and follow up in relation to international and regional human rights recommendations and treaty obligations. I strongly recommend the use of the practical guide that my Office released in 2016 on this topic and which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.”

Please, kindly note that I will be sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Turkmenistan to submit a mid-term report on the follow-up of the third cycle of the review, by 2020.

As the Secretary-General stated in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I look forward to discussing with you ways in which my Office may assist Turkmenistan to take action in the areas I have identified in this letter and its Annex.

Please, accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. Mr. Vepa HAJYYEV
Deputy Minister of Foreign Affairs
Turkmenistan

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Convention against Discrimination in Education, the Convention on the Prevention and Punishment of the Crime of Genocide, Additional Protocol III to the 1949 Geneva Conventions, the International Labour Organisation Domestic Workers Convention (No. 189) and the Rome Statute of the International Criminal Court.
- Strengthening of its cooperation with the United Nations human rights bodies including by issuing a standing invitation to the special procedure mandate holders and accepting requests made by them to visit Turkmenistan and implementing views.

National human rights framework

- Strengthening of the independence of the Commissioner for Human Rights (the Ombudsperson), including by improving selection and appointment procedures of the Commissioner in line with the Paris Principles and broadening its mandate to receive complaints and monitor places for deprivation of liberty.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Ensuring effective protection against all forms of discrimination in law and practice, including by prohibiting direct, indirect and multiple discrimination, providing a comprehensive list of grounds of discrimination in its legislation, including sexual orientation and gender identity, and providing for access to effective and appropriate remedies for victims of discrimination.
- Combatting effectively hate crime and hate speech, including by investigating and prosecuting all instances of such crimes and punishing the perpetrators.
- Improving further its HIV prevention policies in order to ensure the protection of privacy and confidentiality of persons living with HIV/AIDS and that those policies do not lead to discrimination on grounds of health, including by guaranteeing that HIV testing of individuals does not have a compulsory nature and is done with due regard to consent, confidentiality and necessity requirements and ending HIV-related travel restrictions.
- Taking measures to decriminalize sexual relations between consenting adults of the same sex and eliminating the social stigmatization of homosexuality and discrimination or violence against persons based on their sexual orientation or gender identity.

Development, the environment, and business and human rights

- Ensuring the effective implementation of the Paris Agreement and the United Nations Framework Convention on Climate Change, including by adopting national policies and programs for climate change adaptation and mitigation and improving the intended nationally determined contribution in line with the Paris Agreement.

- Strengthening of its efforts to successfully combat corruption, including effectively detecting corruption cases in State institutions and investigating those cases, as well as prosecuting perpetrators with adequate sanctions.

Human rights and counter-terrorism

- Revising the broad definition of extremism in its legislation to ensure that it does not lead to disproportionate restrictions of human rights and ensuring that its efforts to counter terrorism and fight violent extremism are conducted in a manner that complies with its international human rights obligations.

B. Civil and political rights

Right to life, liberty and security of person

- Ensuring zero tolerance of the use of torture and other forms of ill treatment against persons deprived of their liberty and the effective implementation of provisions of the Criminal Code that criminalise the use of torture.
- Ensuring that acts amounting to torture are not subject to any statute of limitations, that the granting of amnesties for the crimes of torture are prohibited and that all incidents of torture and ill-treatment by law enforcement officials are firmly condemned, adequately investigated and sanctioned.
- Taking effective measures to end the practice of arbitrary and secret detention and of enforced disappearances, ensure effective investigation of all such cases and bring the perpetrators to justice as well as disclose the whereabouts of disappeared persons in the past years.
- Taking measures to end incidents of violence and psychological pressure carried out by prison staff and death in prisons, and to ensure effective investigations of all such cases.
- Continuing its efforts to bring the detention conditions into line with international human rights standards, including by reducing prison overcrowding and ensuring that detainees are provided with adequate material and hygienic conditions and access to adequate medical care.

Administration of justice, including impunity, and the rule of law

- Strengthening of its measures to ensure the independence of the judiciary from the executive branch and combat corruption in the judiciary.
- Ensuring that all detained persons are afforded in law and in practice all the fundamental legal safeguards from the outset of their deprivation of liberty, including the right of detainees to be informed about the charges against them and about their rights, have prompt access to a lawyer and, if necessary, to legal aid, have immediate access to an independent medical examination, notify a family member or any other person of their detention immediately after apprehension and be brought before a judge within 48 hours.
- Ensuring the enjoyment of the fair trial by everyone in line with its international human rights obligations, including effective access to a court and having a public hearing before an independent and impartial court or tribunal established by law.
- Strengthening of its efforts to ensure that the use of forced confessions are not used as evidence in courts.
- Set-up of an independent and effective mechanism for complaints of torture and ill-treatment in places of detention.
- Establishment of a national system of independent and regular monitoring of all places of detention without a prior notice as well as granting international organisations an unhindered access to detention places for independent monitoring.



Fundamental freedoms

- Ensuring the enjoyment of the right to freedom of religion and belief, including by improving its laws and procedures so restrictions on the manifestation of this right are in conformity with article 18 of the ICCPR and by recognizing the right to conscientious objection to military service.
- Creating an enabling environment for the establishment of independent media, safeguarding media pluralism and ensuring that journalists work freely and without fear of retribution for expressing critical opinions and that everyone has unhindered access to various sources of information, including the Internet and social media.
- Guaranteeing the right to freedom of assembly in law and in practice in line with article 21 of the ICCPR, including by refraining from undue restrictions on peaceful assembly and by ending the practice of forcibly mobilizing residents for participation in government-organized mass events.
- Creating an enabling environment for the work of independent civil society organizations and human rights defenders free from intimidation, harassment, and arbitrary detention as well as amending relevant laws and regulations to remove undue restrictions on the right to freedom of association and to bring them in conformity with international human rights standards.
- Ensuring that its residence registration requirements do not make undue restrictions on the enjoyment of human rights, including the right to freedom of movement and that no travel ban is arbitrarily imposed and any restriction on travel abroad complies with its obligations under the ICCPR.
- Improvement of the electoral process in law and in practice in order to ensure effective realization of the right of everyone to vote and to be elected.

Prohibition of all forms of slavery

- Enforcing effectively its national laws prohibiting the use of forced labour and child labour, particularly in the cotton sector and refraining from exercising state pressure in cotton harvesting through cotton production quotas that might result in forced labour.

C. Economic, social and cultural rights

Right to an adequate standard of living

- Ensuring universal access to safe drinking water and adequate sewage and sanitation facilities, particularly in rural areas.
- Providing adequate safeguards against forced evictions and ensuring adequate compensation to those residents whose properties are expropriated and demolished for urban reconstruction and public interests.

Right to health

- Strengthening measures to ensure access to affordable and good quality health care and medical treatment for all segments of the population, including persons living in rural and remote areas, including by increasing public health expenditure and improving the quantity and quality of health services.
- Strengthening its measures to reduce infant and child mortality.

Right to education

- Continuing its efforts to ensure access to quality education, including pre-school education.

- Ensuring comprehensive education on sexual and reproductive health in schools with the provision of sufficient teacher training on sexuality education.

D. Rights of specific persons or groups

Women

- Promotion of gender equality in all spheres of life, by addressing gender-based discrimination and gender stereotypes relating to the aspirations, preferences and abilities of women, eliminating gender wage gap and occupational segregation by sex, and improvement of representation of women in the public and private sectors.
- Strengthening of measures to prevent domestic violence and gender-based violence and improvement of its laws to prohibit and sanction cases of domestic violence.

Children

- Strengthening of measures to end the use of corporal punishment as a form of disciplining children and to promote non-violent and participatory forms of child-rearing and discipline through awareness-raising programmes and campaigns.
- Improving the juvenile justice system by establishing specialized juvenile courts, ensuring the provision of qualified legal aid to children in conflict with the law, promoting the use of alternative measures to detention and ensuring that detention is used as a measure of last resort and for the shortest possible period.

Persons with disabilities

- Adopting a social and human rights model for disability and combating discrimination and stereotypes against persons with disabilities.
- Promotion of the deinstitutionalization of persons with disabilities and creation of an inclusive environment conducive to the full integration of persons with disabilities in society, including by providing community-based services for persons with disabilities and supporting their independent living and by ensuring effective access of persons with disabilities to the labour market and accessible physical environment.
- Development and implementation of a comprehensive policy on inclusive education with a focus on the integration of children with disabilities into mainstream education.

Minorities

- Strengthening of its measures to protect the rights of minorities without any discrimination, including for the children of ethnic minorities to learn their mother tongue.

Migrants, refugees and asylum seekers

- Ensuring that fair and efficient asylum and referral procedures are in place and accessible at all border points and that asylum seekers have access to independent, qualified and free legal advice and representation.

Stateless persons

- Establishing a statelessness determination procedures and bringing the definition of stateless persons in the Law on Citizenship of 2013 in line with the Convention relating to the Status of Stateless Persons as well as ensuring that all children born in Turkmenistan acquired nationality, if otherwise they would be stateless, irrespective of the legal status of their parents.