



CURTAILING RIGHTS IN THE NAME OF STABILITY

Current trends in Turkmenistan

May 2015



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This is an excerpt on Turkmenistan from a briefing paper on fundamental rights in Kazakhstan, Tajikistan and Turkmenistan prepared by Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), Nota Bene (Tajikistan), Turkmen Initiative for Human Rights (TIHR, based in exile in Austria) and International Partnership for Human Rights (IPHR, Belgium) within the framework of a joint project. It is based on the findings of monitoring conducted by TIHR in April 2014 to April 2015 and provides an overview of major concerns regarding freedom of expression and the media; freedom of association and assembly; as well as access to justice, non-discrimination and the protection of vulnerable groups in Turkmenistan. IPHR has compiled the joint briefing paper.

Turkmenistan

Brief overview of the general situation

All elections held in Turkmenistan, including the 2012 elections where current President Gurbanguly Berdymukhammedov was re-elected with a reported 97% of the vote, have been fundamentally un-democratic and un-free. The OSCE Office for Democratic Institutions and Human Rights has refrained from deploying full-fledged election monitoring missions due to the lack of any competition.¹

Last year the president initiated a reform process said to be aimed at bringing the Constitution into line with international standards, and recently a number of new, more liberally worded laws concerning the exercise of fundamental rights have been adopted. However, these laws have not translated into corresponding improvements in practice and are unlikely to do so in the absence of wide-ranging reforms to open up space for free expression and political and civic participation.

Currently the human rights situation in the country remains deplorable. As previously, the presidential administration controls all branches of power. There is no functioning political opposition, although two new political parties have emerged as formal competitors to the presidential party, and well-known opponents are either in exile or in prison. Media are strictly controlled by the state, the civil society climate is highly repressive, and all who publicly criticize authorities are at risk of persecution.

A personality cult has increasingly been promoted around President Berdymukhammedov, featuring elements similar to that of notorious late President Saparmurat Niyazov. Among others, he has assumed the title of “The Protector” of the nation, erected statutes and portraits of himself across the country, and mobilized students and other residents for mass events aimed at praising his regime.

Corruption is endemic in the country and citizens continue to be subjected to arbitrary and unlawful measures taken by authorities, with little access to justice or remedy. Women, children, minorities, migrants and other vulnerable groups remain at particular risk of human rights violations.

Freedom of expression and the media

Tight control of media and restrictions on access to information

A **first ever Media Law** entered into force in Turkmenistan in January 2013. This law contains welcome provisions that safeguard freedom of the media and prohibit censorship and unlawful interference in the activities of media. However, these provisions stand in **stark contrast to the current restrictive media environment** in the country.

There are **no independent media**, and state media are **tightly controlled by the authorities** and used as means of ideological propaganda. The authorities interfere with and dictate editorial policies, and chief editors and other top media officials are appointed and dismissed by the president. The import of foreign newspapers is restricted.² Programs broadcast on national TV channels are closely screened and while foreign channels are accessible via private satellite dishes, arbitrary campaigns by authorities to dismantle satellite dishes has restricted access to this source of information. As reported by TIHR, efforts to remove satellite dishes, as well as air conditioners and other elements argued to spoil the appearance of buildings have been reinforced ahead of the Asian Indoor and Martial Art Games due to take place in Ashgabat in 2017.³

The authorities continue efforts **to cover up information** about events that risk showing those in power in a bad light and giving rise to popular discontent, such as accidents, the outbreak of epidemical diseases

and similar. To this end, media have been prohibited from reporting on such events and eye witnesses intimidated and photos and video footage confiscated. Such steps were taken, among others, in connection with a deadly traffic accident involving a presidential security car in October 2014.⁴

In a long-standing, questionable practice, employees at state institutions are obliged to subscribe to unpopular state-own periodicals in their field of work and to pay for such subscriptions themselves.⁵

Internet censorship

The **internet** is still available only to some 10% of the population⁶ and remains **heavily controlled**. **Foreign websites** that publish independent and critical information about developments in Turkmenistan **are blocked** and foreign social media sites are often inaccessible except through proxy servers. Access to downloadable communication applications such as WhatsApp has also been restricted. The costs for private internet access remains prohibitive. The MTS provider, which is the only competitor to the state-run provider, has reported facing obstruction from the authorities in offering more attractive services to customers. It was only able to launch a 3G network in October 2014, four years after the state provider.

A **new law on internet regulation** adopted at the end of 2014 sets out that the government will take measures to **promote internet access**, ensure fair competition in the field of internet services and boost internet infrastructure. However, at the same time, it provides for **undue restrictions on access to online content**. Among others, it prohibits the dissemination of information that is considered slanderous or “rejects family values”. It also states that internet-regulating bodies may cooperate with public associations “whose activities are aimed at detecting illegal information in the internet.” While welcoming that the law lays grounds for better access, the OSCE Representative on Freedom of the Media has expressed concern about its restrictive provisions.⁷

Freedom of association and assembly

New legislation regulating freedom of association and assembly

A new Law on Public Associations was adopted in May 2014, and a first Law on Assemblies was signed by the president earlier this year and will enter into force as of July. While the efforts to develop legislation in these areas are welcome as such, the new laws are weakened by basic restrictions and are not likely to result in any real progress unless systematic measures are taken to promote conditions for civic participation outside of strict government controls.

The **new Law on Public Associations** grants citizens the right to establish and join public associations of their choice and prohibits state interference in the activities of associations. However, **major provisions remain problematic**, such as a requirement of compulsory registration of associations, strict registration rules for national-level organizations, provisions granting authorities wide and largely unfettered powers to oversee the activities and funding of associations and broad grounds for closing down organizations.

The **new Law on Assemblies**, which is long overdue, allows individuals and lawfully registered organizations to carry out pickets, rallies and other public gatherings if local authorities are informed well in advance and the venue for holding these events is agreed. At the same time, it **grants local authorities wide discretion to refuse to agree to assemblies**. Protests are prohibited near e.g. government buildings, hospitals, schools and public transportation and in other places where so decided and, as a rule, assemblies should be held in venues that will be specifically designated for this purpose. As seen in other countries in the region, such venues are typically in remote and unsuitable locations. Under the law, only one-person pickets can be held without informing authorities.

Repressive civil society environment

In practice, the civil society environment in Turkmenistan remains highly repressive. The authorities continue to promote government-controlled organizations in place of independent groups and civil society groups addressing human rights and other sensitive issues can only operate underground or in exile. The few local journalists who contribute to foreign media, civil society activists, the family members of exiled dissident voices and others who dare to openly challenge official policies in Turkmenistan remain highly vulnerable to intimidation and harassment. (See also the section on “access to justice” for information on unfair and politically motivated trials).

Earlier this year, law enforcement authorities made an apparent attempt to unlawfully confiscate the apartment of ethnic Kazakh community leader Bisengul Begdesenov,⁸ who was pardoned in 2012 after being given a nine-year suspended prison sentence on what was believed to be politically motivated charges in 2011. In December 2014, Radio *Azatlyk* correspondent Soltan Achilova was detained and questioned by police when taking photos of people waiting in line at a food market in Ashgabat.⁹ The same month another journalist who had contributed to foreign media, Gulshen Ashirova, was killed together with her son and cleaning lady under unclear circumstances, but the investigation into this case did not appear to consider a possible link to her professional activities.¹⁰ In another example illustrating how dangerous any public criticism is, sculptor Klychmurad Yarmamedov was expelled from the state Turkmen Academy of Arts after speaking up about the poor quality of art in the country.¹¹

Austria-based TIHR has also repeatedly been subjected to pressure, including cyber attacks and retaliatory measures targeting family members back in Turkmenistan. Last year, TIHR head Farid Tuhkbatullin’s brother Ruslan was prevented from flying from Turkmenistan to Turkey to meet him.

Public assemblies are a rare occurrence in Turkmenistan because of the lack of awareness among citizens of their rights and the overhanging threat of reprisals for any criticism of official policies. Recently, however, TIHR has reported about an increasing number of incidents where citizens have carried out spontaneous protests in response to the removal of air conditioners from their apartment buildings, demolitions of their houses and other issues directly affecting their everyday lives. This development appears to have troubled authorities, which view any expression of discontent as a threat. Attempts have also been made by law enforcement officials to track down and warn the instigators of such protests. Against that background, there are reasons to fear that the new Law on Assemblies may be used to deem spontaneous, peaceful gatherings unlawful and to intimidate and harass the initiators and participants.¹²

No genuine political pluralism

A first-ever Law on Political Parties adopted in 2012 created a legal basis for a multi-party system. Following this, two more political parties have been established aside the pre-existing presidential Democratic Party of Turkmenistan -- the Party of Industrialists and Entrepreneurs in August 2012 and the Agrarian Party in September 2014. However, the process of creating these new parties has been carried out under the auspices of the presidential administration, and the new parties do not represent any independent platforms. The OSCE Office of Democratic Institutions and Human Rights concluded that the participation in the December 2013 parliamentary elections of the Party of Industrialists and Entrepreneurs was “no substitute for a genuinely pluralistic environment which would provide for the functioning of a political opposition to the incumbent authorities.”¹³

Access to justice, non-discrimination and the protection of vulnerable groups

Non-transparent justice system and widespread corruption

As previously, the **justice system in Turkmenistan lacks independence and transparency**, and unknown numbers of individuals continue to serve prison sentences on politically motivated charges. The secrecy surrounding trials and imprisonments makes it impossible to determine the exact number of such prisoners. However, dozens of individuals convicted in flawed and politically motivated trials are known to have **disappeared in prison**, including individuals convicted in sham trials after the alleged assassination attempt on late President Saparmurat Niyazov in 2002. The UN Human Rights Committee has called on the authorities of Turkmenistan to put an end to the practice of incommunicado detention and imprisonment, to make known the whereabouts of those convicted for allegedly attempting to assassinate the former president and to grant them access to their lawyers and family members.¹⁴

Nepotism and corruption shown no signs of abating in Turkmenistan. In Transparency International's annual Corruption Perceptions Index published in December 2014 Turkmenistan was again ranked as **one of the world's most corrupt countries** (place 169 of 175).¹⁵ As documented by TIHR, corrupt practices are widespread within different state structures and institutions, and residents are required to pay bribes for ensuring basic services, ranging from getting through a traffic control to securing employment, business licenses or school enrolment. TIHR has also repeatedly reported about **arbitrary and unlawful measures taken by law enforcement and other officials** who abuse their positions for personal gain or implement orders by superiors in a rigid and heavy-handed way. Residents have little recourse to remedy given the lack of an independent judiciary in the country.

Shortcomings in the protection of the rights of the child

TIHR's monitoring shows that the authorities have **failed to bring about substantial improvements in education and other key areas of the rights of the child** since President Berdymuhammedov took power in 2007.¹⁶ A number of education reforms have been initiated and the length of compulsory education increased to 12 years. However, **more comprehensive and systematic reforms are needed to reverse the degradation of the education system** that took place during previous President Niyazov and to improve the quality of education. Lack of well-trained teachers and textbooks remain major problems. The education system is also still characterized by an ideological orientation. Teaching of the infamous *Rukhnama* authored by the previous president has been replaced with classes in writings of the current president, and students continue to be mass mobilized for holiday parades and other events aimed at demonstrating the well-being of the nation and praising its leader.

Children from ethnic minority groups have been denied the opportunity to study in their own languages due to the closure of schools and cutbacks in instruction in minority languages. While instruction in Russian has continued in selected classes in larger cities, the number of such classes has continued to decline.¹⁷

When examining the situation in Turkmenistan in January 2015, the UN Committee on the Rights of the Child expressed concern, among others, about the lack of data to measure progress in the field of education, the continued practice of mass mobilization of students for various festive events and discriminatory practices towards children belonging to national minorities. It further called on the authorities to conduct a comprehensive assessment of the resources needed for guaranteeing children's rights, establish mechanisms to monitor and evaluate the efficacy and adequacy of the distribution of resources allocated for this purpose, and to take immediate measures to combat corruption.¹⁸

Harassment and discrimination of ethnic and religious minorities

There are also concerns about continued **practices of discrimination against ethnic minority members** in other areas than education, as well as the **difficulties** experienced by some ethnic minority families **in legalizing their status** despite long-term residency in the country. As a result of this, they experience problems e.g. with respect to gaining employment, enrolling children in school and exiting the country.¹⁹ **Dual Turkmen-Russian citizens** have for years been **subjected to pressure** to renounce their Russian citizenship in order to obtain new biometric Turkmen passports that are compulsory as of 2013. With a Turkmenistan-Russia agreement on dual citizenship expiring in mid-May 2015, TIHR has reported about a growing number of dual citizens leaving the country.²⁰

In a persistent pattern, religious minority communities face **problems in gaining registration** and are subjected to **raids on their meetings and other intimidation**.²¹ As reported by TIHR, recent anti-terrorism efforts have entailed measures directed at so-called non-traditional Islamic groups, whose popularity has increased. Information received by the organization gives rise to concern that mass arrests carried out in this context since February 2015 may also have **targeted individuals merely for peacefully exercising their beliefs** outside strict state controls and for **planning to hold a rally** in the city of Tejen to protest food price hikes, unemployment and other socio-economic problems.²²

Concerns about evictions and repressive measures taken to promote “morality”

Another vulnerable group are families who are evicted from their homes due to government construction projects, or crackdowns on construction deemed “illegal”. As reported by TIHR, evictions are often carried out at short notice, and **many evicted families have not been granted adequate compensation or appropriate, alternative accommodation**. In some cases, families have been forced to stay in makeshift facilities for extended periods of time after being evicted.²³

TIHR has learned about an increasing number of evictions in connection with construction projects related to the 2017 Asian Games. This spring authorities have, among others, demolished holiday cottages on the outskirts of Ashgabat without providing the owners with compensation.²⁴ These demolitions have affected people who have come to the capital in search of jobs and who have resided with their families in such cottages on an ongoing basis due to the lower rental level, in spite of the often substandard conditions.²⁵ TIHR has also reported about difficulties faced by internal labour migrants in obtaining required residency registration in Ashgabat and harassment by law enforcement officials.

In the recent period, Turkmen authorities have **intensified efforts to enforce “moral standards” and “traditional values”** among especially young people, giving rise to concerns about repression under this pretext. Among others, as reported by TIHR, young couples have been warned by police not to hold hands or hug in public under the threat of detention or other repercussions and school girls have been subjected to humiliating medical checks in the name of combating “immoral” sexual practices (understood as pre-marital sex). Parents of school children have reportedly been required to sign pledges to bring up their children “to comply with the tradition, customs and culture of the Turkmen nation”,²⁶ and government officials have carried out inspections to track down possible “inappropriate” content on the cell phones of students.²⁷

Although prohibited, **polygamy is practiced** in Turkmenistan, especially in rural areas where such marriages are conducted according to the Islamic *nikah* tradition. The reasons for the prevalence of this practice include, among others, high unemployment and lack of access to vocational and higher education among girls and women, and a decreasing male population due to migration and other factors. While TIHR is not aware of any cases where men entering into polygamous marriages have been brought to justice, numerous so-called “second wives” have been convicted for prostitution-related offenses.

Recommendations

Freedom of expression and the media

The authorities of Turkmenistan should:

- In accordance with the basic principles laid down in the 2013 Media Law, take concrete measures to put an end to media censorship, promote the growth of privately owned media and ensure that media can operate freely and without interference.
- Stop restricting access to foreign sources of information, including by dismantling satellite dishes of residents, and refrain from covering up information on issues of public concern.
- In accordance with the new law on internet regulation, take systematic measures to promote internet access and availability, and refrain from censoring, blocking or restricting the use of the internet in ways that are contrary to international freedom of expression standards.

Freedom of association and assembly

The authorities of Turkmenistan should:

- Request that independent, international experts review the Law on Public Associations and the Law on Assemblies in light of Turkmenistan's international human rights obligations and amend this legislation in full accordance with the ensuing recommendations.
- Commit to elaborating an action plan for implementing systematic reforms to open up space for civic participation and the expression of alternative views in the country and seek cooperation from international organizations, human rights bodies and NGOs for this purpose.
- Abolish the prohibition on unregistered NGO activities and ensure that independent NGOs that so wish may obtain legal status in a fair and transparent process and carry out their activities without undue interference by authorities.
- Allow peaceful, spontaneous protests to take place without repercussions for the organizers and participants and welcome such protests as an opportunity to obtain information on concerns held by citizens that ought to be addressed by authorities.
- Put an end to the persecution of independent journalists, civil society activists and others who openly address problems in the country, including exiled activists and their family members in Turkmenistan.
- Ensure that the Law on Political Parties is implemented in a way that allows political parties independent from current state structures to obtain registration and operate freely in the country.

Access to justice, non-discrimination and the protection of vulnerable groups

The authorities of Turkmenistan should:

- As called for by the Human Rights Committee, take all necessary measures to safeguard the independence of the judiciary, and ensure that the country's courts are not used to punish individuals for politically motivated purposes. Immediately release all individuals who are imprisoned on such grounds and disclose the faith of those who have disappeared in prison.

- Acknowledge the serious level of corruption in the country and take robust measures to combat such practices, including by investigating corruption allegations and bringing perpetrators to justice.
- Take concrete steps to implement the recommendations made by the UN Child Rights Committee and publicly report on action taken to this end. Also, carry out systematic reforms to improve the quality of education and reverse its ideological orientation, and safeguard the right of ethnic minority children to obtain instruction in their own languages.
- Put an end to harassment and discrimination of ethnic and religious minorities, and ensure that members of such groups can peacefully exercise their fundamental rights without hindrance.
- Carry out any evictions in full accordance with due process requirements and grant those affected appropriate, alternative accommodation or other adequate compensation.
- Refrain from arbitrary measures infringing the integrity and rights of citizens in the name of enhancing moral standards, and take effective measures to address the root causes of polygamy instead of prosecuting women in such marriages for prostitution-related offenses.

¹ Most recently, the ODIHR deemed that the deployment of an election observation mission to monitor the December 2013 parliamentary elections would not be of “added value”. See Needs Assessment Mission Report at <http://www.osce.org/odihr/elections/turkmenistan/104831?download=true>

² There are some exceptions, e.g. the Russian school in Ashgabat may subscribe to foreign publications.

³ TIHR, “Remove everything! Ashgabat to host Asian Games”, 24 February 2014, at <http://www.chrono-tm.org/en/2015/02/remove-everything-ashgabat-to-host-asian-games/>

⁴ For more information, see TIHR, “Officials to be held responsible for children’s deaths,” 5 November 2014, at <http://www.chrono-tm.org/en/2014/11/officials-to-be-held-responsible-for-childrens-deaths/>

⁵ TIHR, “Compulsory subscription to Turkmen periodicals”, 22 April 2015, at <http://www.chrono-tm.org/en/2015/04/compulsory-subscription-to-turkmen-periodicals/>

⁶ According to the latest available statistics from the International Telecommunication Union, available at <http://www.itu.int/ITU-D/ict/statistics/index.html>

⁷ “New Internet law in Turkmenistan lays grounds for better access, but comes with undue restrictions Mijatović says “, 9 January 2015, at <http://www.osce.org/fom/133701>

⁸ TIHR, “Persecution of Turkmenistan’s Kazakh community leader persists,” 13 February 2015, at <http://www.chrono-tm.org/en/2015/02/persecution-of-turkmenistans-kazakh-community-leader-persists/>

⁹ RFE/RL, “Journalist Questioned In Turkmenistan Over Fresh Meat Story,” 17 December 2014, at <http://www.rferl.org/content/qishloq-ovozi-turkmenistan-fresh-meat-journalists-harassed/26749459.html>

¹⁰ TIHR, “Новые подробности убийства туркменской журналистки”, 5 January 2015, at <http://www.chrono-tm.org/2015/01/novyie-podrobnosti-ubiystva-turkmeniskoy-zhurnalistki/>

¹¹ TIHR, “Honorary Member of the Russian Academy of Arts expelled from Turkmenistan’s Academy of Arts”, 16 May 2014, at <http://www.chrono-tm.org/en/2014/05/honorary-member-of-the-russian-academy-of-arts-expelled-from-turkmenistans-academy-of-arts/>

¹² On this issue, see also comments made by TIHR Chairman Farid Tukhbatullin in article by Deutsche Welle, “Туркмения: разрешение на митинги усложнит их проведение” from 13 March 2015, available at: <http://www.dw.de>

¹³ OSCE/ODIHR Needs Assessment Mission Report, <http://www.osce.org/odihr/elections/turkmenistan/104831>

¹⁴ Par. 10 of Concluding Observations of the Human Rights Committee on the initial report submitted by Turkmenistan under the International Covenant on Civil and Political Rights, March 2012.

¹⁵ Transparency International, Corruptions Perceptions Index 2014, at <http://www.transparency.org/cpi2014/results>

¹⁶ See TIHR and IPHR, “Turkmenistan’s child rights record under UN scrutiny”, 12 January 2015, at <http://www.iphronline.org/turkmenistans-child-rights-record-under-un-scrutiny-20140112.html>

¹⁷ See TIHR, “The use of Russian language in education to be reduced in Turkmenistan”, 2 July 2014, at <http://www.chrono-tm.org/en/2014/07/the-use-of-russian-language-in-education-to-be-reduced-in-turkmenistan/>

¹⁸ UN Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Turkmenistan, adopted on 30 January 2015.

¹⁹ See TIHR, “Turkmenistani residents without passports”, 23 September 2014, at <http://www.chrono-tm.org/en/2014/09/turkmenistani-residents-without-passports/>

²⁰ TIHR, “Исход. Русские бегут из Туркменистана”, 28 April 2015.

²¹ For more information, see reports on Turkmenistan by Forum 18, at forum18.org

²² See TIHR, “Mass arrests in the south of Turkmenistan”, 16 March 2015, at <http://www.chrono-tm.org/en/2015/03/mass-arrests-in-the-south-of-turkmenistan/>; and “Arrests related to ‘Tejen case’ are underway in Turkmenistan”, 15 April 2015, at <http://www.chrono-tm.org/en/2015/04/arrests-related-to-tejen-case-are-underway-in-turkmenistan/>

²³ For example last year, TIHR reported that over 300 families whose houses had been demolished lived in barracks in deplorable conditions at the outskirts of the capital Ashgabat. See <http://www.chrono-tm.org/en/2014/05/powerful-and-happy-but-homeless-turkmen/>

²⁴ “The village of Choganly to be demolished”, 26 March 2015, at <http://www.chrono-tm.org/en/2015/03/the-village-of-choganly-to-be-demolished/>

²⁵ See TIHR, “Spontaneous protest near Ashgabat”, 21 January 2014, at <http://www.chrono-tm.org/en/2014/01/spontaneous-protest-near-ashgabat/>

²⁶ Radio Azatlyk, “В Туркменистане определены обязательства для школьников и их родителей”, 14 May 2014, at <http://www.chrono-tm.org/2014/05/v-turkmenistane-opredelenyi-obyazatelstva-dlya-shkolnikov-i-ih-roditeley/>

²⁷ TIHR, “Mobile telephones are not for Turkmen schoolchildren”, 16 April 2015, <http://www.chrono-tm.org/en/2015/04/mobile-telephones-are-not-for-turkmen-schoolchildren/>