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## **EXECUTIVE SUMMARY**

This report is a critique of the Government of Turkmenistan's report to the United Nations Committee on the Elimination of Racial Discrimination (CERD). It will first identify ethnic and racial minority groups in Turkmenistan and then proceed to examine, article by article, how the government report comports with reality, bearing in mind that the definition of "racial

discrimination” includes distinction and restriction based not only on race, but also on “colour, descent, or national or ethnic origin.”

Turkmenistan’s human rights practices have been the subject of international concern for some years. The increasing concentration of power in the person and office of President Saparmurat Niyazov has seriously weakened the separation of powers outlined in Turkmenistan’s Constitution. The President’s edicts and utterances are more powerful than any law on the books; in fact, they frequently become the law. No effective checks on Presidential power exist. At the same time, President Niyazov has cultivated an extensive and eccentric cult of personality, which is suspicious of any perceived challenges to Presidential authority and promotes the President’s own views of Turkmenistan’s history and culture to the exclusion of any alternative voices.

The consequences of this for the implementation of the human rights of the people of Turkmenistan have been serious. Freedom of speech is non-existent. All expressions of opposition to the President and his government are criminalized as treason. No opposition parties exist, and free assembly is prohibited. The judicial system is not independent, and denials of basic legal rights – presumption of innocence, access to counsel – are widespread. No recourse exists against police intimidation and brutality. In addition to these violations of basic civil and political rights, Presidential policy in recent years has adversely impacted many areas of public life, from health care to education to cultural institutions. Turkmenistan’s citizens lack many of the basic human rights supposedly guaranteed them under both the country’s own Constitution and its various international treaty commitments.

Turkmenistan’s ethnic and racial minority populations bear a special burden under these policies and practices. Their loyalties to the State and to the President are constantly suspect. President Niyazov has made a number of public statements about the need to promote the “purity” of the Turkmen people, and to purge the State of those who “dilute” its “blood”. No reliable evidence exists to assess the impact of such statements on the attitudes of the Turkmen people; nonetheless, they have had severely adverse consequences for Turkmenistan’s minority populations. In particular, minority populations face exclusion from higher education and are denied access to the public sector labor force. Moreover, they are routinely harassed by the police and secret services. Their right to practice their religion is either banned altogether or subject to constant surveillance and intimidation. In some cases, they have been forcibly resettled to the country’s uninhabited desert regions. No effective means of challenging these abuses exists within Turkmenistan’s current political system.

The international community has had some, albeit limited, impact in redressing these policies. It is therefore imperative that international attention continues to be brought to bear on the government of Turkmenistan to honor its own Constitution; its obligations under international law, including the Convention on the Elimination of Racial Discrimination; and its promises to all its citizens that it is committed to their present and future freedom and well-being.

## **INTRODUCTION: Turkmenistan and International Human Rights**

Turkmenistan is signatory to the major United Nations treaties concerning human rights. These include the Convention on the Elimination of Racial Discrimination (CERD), the subject of the present review; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights; the Convention against Torture; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child. In 1995, Turkmenistan reaffirmed these commitments in its own “declaration on the neutral rights commitments of neutral Turkmenistan” (see Para. 61 of its present report to the CERD). Turkmenistan also has additional human rights obligations as a member of the Organization for Security and Cooperation in Europe (OSCE). The government of Turkmenistan is clearly not only cognizant but proud of these obligations to protect the human rights of all citizens of Turkmenistan, as its detailed enumeration of them in its report to the CERD indicates (Para. 58).

Such declarations of compliance notwithstanding, Turkmenistan’s human rights record has been the subject of serious international concern for some years now. The United Nations, the OSCE and the European Union have all expressed grave concerns about the human rights situation in the country, and have called upon the government of Turkmenistan to display greater transparency and openness to dialogue with the international community. Indeed, the UN General Assembly and the UN Human Rights Commission adopted resolutions of concern about the state of human rights in Turkmenistan in 2003, and reiterated these concerns in 2004. In addition, a series of detailed and highly critical reports from respected NGOs, such as the International League for Human Rights, the International Crisis Group (ICG) and Amnesty International, have expressed alarm at Turkmenistan’s human rights practices, from prisoner abuse and media controls to the treatment of ethnic and racial minorities. The European Parliament identified Turkmenistan’s treatment of its racial and ethnic minorities as an area of particular concern in its resolution of October 23, 2003, noting that they “face large-scale discrimination”. Such considerations have severely restricted the activities of other international agencies in Turkmenistan: for example, in limiting its involvement in Turkmenistan to a “baseline scenario”, the European Bank for Reconstruction and Development cited Turkmenistan’s human rights record as one of “the challenges facing Turkmenistan if it is to

realize fully-fledged cooperation with the Bank”.

Turkmenistan's history of cooperation with the international community in investigating, addressing, or correcting its human rights record has been mixed, and unsatisfactory. On the one hand, in the past two years it has changed the severely restrictive rules on the registration of religions, and eliminated the formal requirement for exit visas (to be discussed below), both of which appear a direct response to the threat of sanctions. On the other hand, Turkmenistan denied a visa to the OSCE 'Moscow Mechanism' Special Rapporteur to investigate claims of widespread human rights abuses in the wake of the reported assassination attempt on President Niyazov in November of 2002. The OSCE report was therefore prepared by one Rapporteur, without the ability to travel to Turkmenistan. Perhaps most significantly for the present CERD meetings, Turkmenistan did not meet its reporting obligations to any UN body until its current submission to the CERD, designated as the combined First through Fifth Reports to the CERD. While this makes the CERD report all the more welcome, Turkmenistan must be strongly encouraged to meet its formal treaty obligations more consistently in the future.

Indeed, the CERD itself has already declared its “deep concern” over numerous aspects of Turkmenistan's human rights practices. At its 1507<sup>th</sup> meeting in March of 2002, the Committee expressed its concern about “grave allegations of human rights violations in Turkmenistan, both in the civil and political, as well as social, economic, and cultural domains”. The Committee then highlighted areas of specific concern under Article V of the CERD, including the legal status and persecution of unregistered religious groups; discrimination against racial and ethnic minorities and preferential treatment for ethnic Turkmen in the fields of education and employment; and freedom of thought, conscience and religion (Para. 263-265). Each of these areas of concern, as well as many others, will be addressed in the present report from the International League for Human Rights.

Turkmenistan's report to the CERD, and the sessions in Geneva which will consider it, therefore offer an unprecedented opportunity to consider the country's human rights record, and in particular its treatment of racial and ethnic minorities, in front of a distinguished international body. In this context, Turkmenistan's report paints a reassuring and encouraging picture of conditions within the country, and of the Turkmenistan government's respect for human rights and adherence both to its own laws and to the terms of its international human rights commitments. Indeed, the government makes sweeping claims not only about the letter of the law, but also concerning actual practice in Turkmenistan (Para. 102). And it is true that the constitution of Turkmenistan as quoted in the report to the CERD appears to offer strong guarantees of freedom from racial and ethnic discrimination, from religious intolerance and harassment, and from unfair treatment in education and employment.

Unfortunately, however, many of Turkmenistan's laws severely restrict the freedoms ‘guaranteed’ in its Constitution. Some laws restrict the freedoms of all citizens. The definition of treason, for example, is so sweeping that it encompasses all forms of opposition to President Niyazov and his government. In February of 2003, an edict of the People's Council (Halk Mashlakaty), which has the force of law, defined treason as

...efforts to sow within people doubt about the domestic and foreign policy conducted by the first President for Life of Turkmenistan the Great Saparmurat Turkmenbashi, the abuse of...official positions, and also attempts to cause conflict between the people and the state.

Such a definition of treason effectively criminalizes all political speech. Other laws can have a disproportionate and discriminatory impact on minority populations such as Uzbeks and Russians whose loyalties are suspect. For example, the law governing hiring of state managers and civil service officials demands “the prevalence of high ideological and moral qualities for several generations” and the presentation upon entering government service of “certificates of closest relatives”. Finally, it must be noted that formal laws form only part of the system of governance in

Turkmenistan – President Niyazov’s own speeches, statements, and edicts also have the force of law, and can supersede or override legal and Constitutional guarantees without review or appeal.

The present submission to the CERD therefore offers an alternative report to the official account of government practice offered by the Turkmenistan authorities. First, it discusses Turkmenistan’s racial and ethnic demography. Second, it offers a brief overview of the political situation in the country since independence. Then, it proceeds to consider the articles and paragraphs of the CERD of particular relevance to an understanding of the current human rights situation for ethnic and religious minorities in Turkmenistan. Under each article and paragraph, Turkmenistan’s claims in its report to the CERD will be held up against the evidence available from a range of sources about the government’s actual policies and practices. A series of supplementary Annexes makes some specific recommendations for constructive action, and lists the sources consulted in the preparation of this alternative report to the CERD.

## **PART 1. General Information**

### **Turkmenistan’s Ethnic and Racial Minority Groups**

Accurate information about the size of the various minority populations in Turkmenistan is difficult to come by. While there is no doubt that the vast majority of the population is Turkmen by ethnicity and Sunni Muslim by confession, the actual current size of the individual minority populations cannot be determined with precision. The Turkmenistan census of 1995 broke the population down as follows: Turkmen 77%; Uzbek 10%; Russian 7%; Kazakh 2%; and other peoples, 4%. Turkmenistan’s present report to the CERD does not cite a specific census date for its figures of Turkmen, 94.7%; Uzbeks, 2%; Russians, 1.8%; and other peoples, 1.5%. The total population of Turkmenistan is approximately 6.5 million; therefore, a group which comprises 1% of the population represents a community of approximately 65,000 people.

These population figures suggest a striking decline in Turkmenistan’s racial and ethnic minority populations in the span of one decade. Although it is impossible to determine with confidence the precise causes of these declining numbers, consideration of some possible explanations will

indicate the challenges facing Turkmenistan's racial and ethnic minorities. On the one hand, much official statistical data in Turkmenistan is unreliable, and often manipulated and distorted to reflect government aims, such as low unemployment figures or high economic growth figures. In the present case, such aims include under-counting minority populations in order to deny minority groups benefits they are nominally entitled to, and to emphasize the continuing 'Turkmenification' of the population (see below). At the same time, minority populations regularly under-report themselves. For example, they adopt Turkmen surnames in place of Uzbek surnames; purposely mis-state their ethnic identity; and refrain from registering to vote in elections in other countries where they may be eligible to vote. Such practices can deliver real practical benefits in Turkmenistan, which openly offers preferential treatment to ethnic Turkmen. Moreover, since independence, considerable numbers of Russians have emigrated, some in response to the poor economic climate in general, and others because of their diminished prospects for education and employment under a regime which openly promotes ethnic Turkmen and discriminates against Russians (and Uzbeks). This exodus of ethnic Russians was only exacerbated by the elimination in 2003 of dual citizenship privileges between Turkmenistan and Russia, which forced ethnic Russians to "choose" citizenship of either Russia or Turkmenistan. Many Russians permanently emigrated in response, in some instances simply abandoning their property at considerable personal loss.

The unreliability of population data therefore reflects in microcosm some of the many challenges facing ethnic minorities in Turkmenistan, which this report will elaborate upon in subsequent sections. Nonetheless, however uncertain the precise numbers, the identity of the various ethnic minorities in Turkmenistan is not open to dispute. These include:

#### i) Russians

The Russian population in Turkmenistan is, of course, a legacy from the decades of Soviet rule. It is primarily urban and centered on the capital, Ashgabat. As mentioned above, the Russian population has declined since independence, and that decline hastened in 2003, when Russians in Turkmenistan lost their dual citizenship rights. Russians suffer reported discrimination in education, including both Russian language education and refusal to recognize Russian university degrees for professional employment. They also suffer from exclusion from virtually all state employment, which leaves them few opportunities in an economy with such an under-developed private sector. They face great difficulty traveling to and from Russia for purposes ranging from business and study to visits to family (in spite of the recent revocation of a law requiring exit visas, practical hurdles remain substantial). A small number of Russians with much-needed technical expertise in the oil and gas industries have escaped the full brunt of these discriminatory practices.

Special mention must be made of the situation of the Russian Orthodox Church in Turkmenistan, which will be discussed more fully below. Until the recent relaxation of the restrictions and regulations governing the registration of religious groups, the ROC enjoyed a privileged status alongside Sunni Islam as one of the two officially recognized religions in Turkmenistan. Such a status has not, however, prevented attempts at official state interference in the internal governance of the ROC; restrictions on travel by church officials to and from Russia; and prohibitions on the importation of Church literature into Turkmenistan. Promotion of the Ruhnama as a 'holy book' has further interfered with the freedom of expression and worship of the Russian Orthodox community. The government of Turkmenistan has declared President Niyazov's Ruhnama the 'spiritual guide' for the people of Turkmenistan; it plays a dominant role in the educational system (see below), and must be displayed in both mosques and churches alongside traditional sacred texts.

#### ii) Uzbeks

Traditionally the 'second' minority group in Turkmenistan, Uzbeks may now outnumber Russians, due to the Russian exodus discussed above – given the clear under-reporting of the size of the Uzbek population, certainty is impossible. Turkmenistan shares a long border with Uzbekistan, and

the majority of the Uzbek population lives in this northern and eastern part of the country. Therefore, they are a more rural population than the Russians in Turkmenistan, and do not enjoy the advantages inherent in proximity to, or residence in, the capital. While they share a Turkic heritage and a Sunni Muslim religion with the Turkmen, their familial and cultural ties with Uzbekistan combined with the tense, often hostile, relations between the governments of Turkmenistan and Uzbekistan result in persistent suspicion of their loyalties on the part of the Turkmenistan government. Official government suspicion of high level Uzbek involvement in the reported assassination attempt on President Niyazov in November of 2002 only exacerbated such suspicions, and led to a brutal crackdown on some prominent Uzbeks, including the incarceration of an imam.

Uzbeks in Turkmenistan face significant restrictions on their freedom of movement. This includes not only trans-border travel to family and relatives in neighboring regions of Uzbekistan; it also extends to forced resettlement within Turkmenistan, away from the politically sensitive border regions. Moreover, the internal travel restrictions within Turkmenistan, which make permission to travel to virtually all border regions very difficult to obtain for citizens of Turkmenistan and foreigners alike, serve further to isolate the Uzbek population. Forced assimilation of Uzbeks on the part of the Turkmenistan authorities includes prohibitions on wearing native Uzbek dress to school, and an accompanying requirement that all Uzbeks wear Turkmen dress. Finally, like the Russian minority, Uzbeks are denied access to higher education; to career and employment opportunities; and to heritage-language education.

### iii) Kazakhs

The Kazakh population of Turkmenistan has declined significantly since independence. Estimates of the remaining Kazakh population are approximately 30,000, down from 90,000 at independence. Kazakhs traditionally lived on the northwestern coast of Turkmenistan, on the Caspian, where Turkmenistan and Kazakhstan share a border. Closure of Kazakh language schools and denial of employment and education opportunities have driven the majority of the Kazakh population back to Kazakhstan, where both the political and the economic climate are far more welcoming. Kazakh School #3 in Turkmenbashi was forced to change its language of instruction from Kazakh to Turkmen over the objections of its former Principal, an ethnic Kazakh named Uzunhan Bayamanova, who was first replaced as Principal by an ethnic Turkmen and then fired from the school. While her appeal of her dismissal remains pending, the school has become a Turkmen-language school and no longer teaches Kazakh.

It should also be noted that the Kazakhs are among the minority groups who suffered alongside the Russians from the declining opportunities for Russian-language education, and concomitant emphasis on the acquisition of Turkmen language skills, since knowledge of Russian affords much greater mobility in the former Soviet Union than knowledge of Turkmen.

### iv) Azeris and Iranians

The Azeri and Iranian populations in Turkmenistan are small (recent estimates of the Azeri population range from 35,000-55,000; no figures could be found for the Iranian population), and centered in western Turkmenistan, as well as along the Iranian border. They are significant for any discussion of human rights and religious freedom in Turkmenistan, because both groups are predominantly Shiite; and Shiite Islam does not enjoy the favored or protected status that the Sunni Islam of the majority of ethnic Turkmen does. Indeed, Shiite Islam remains an unregistered religion, even after the recent relaxation of registration rules. The United Nations Special Rapporteur on Religious Freedom has already noted with concern one reported episode specifically targeting the Azeri minority. In December of 2003, Turkmen secret police

allegedly raided a Shi'ah mosque in the city of Turkmenbashi to break up a commemoration for the late President Heidar Aliyev of Azerbaijan...Hundreds of Muslims from Turkmenistan's ethnic Azeri minority had reportedly gathered at the mosque...to share

the *sadak*, the traditional prayers and communal meal led by the imam, to mark the seventh day after the death of Mr. Aliyev.

This episode is particularly relevant to Turkmenistan's treatment of its racial and ethnic minorities in relation to its commitments under the CERD, since it involves their freedom of worship, freedom of assembly, and freedom of political expression, all of which will be considered in more detail below.

#### v) Armenians

The Armenian population of Turkmenistan is also small, approximately 35,000-40,000, but historically of great importance. The Armenian presence in Turkmenistan predates the Soviet era, and has played a significant role in Turkmenistan's economy. At the same time, a smaller number of Armenians arrived in Turkmenistan as refugees from Azerbaijan in the 1990s, and do not possess citizenship. Armenians live in a number of cities in Turkmenistan, including Ashgabat, Turkmenbashi, Turkmenabat, Balkanabat, and Mary. The Armenian Apostolic Church does not enjoy the special status of the Russian Orthodox Church, and remains unregistered even after the recent relaxation of registration rules. The lack of opportunities for Russian-language education also adversely affects Turkmenistan's Armenians; Armenian is not a Turkic language, and Russian was the traditional language of Armenian participation in Turkmenistan society. Nor are there any Armenian schools in Turkmenistan.

It is also worth noting that Armenians have been victims of expressions of popular disfavor in recent years, perhaps in response to their comparative prosperity in a time of great hardship for the majority of Turkmenistan's people. For example, vandals have destroyed a number of Armenian cemeteries. Given the understandable and necessary emphasis of most human rights reporting on the actions of the Turkmenistan government and authorities, such expressions of popular prejudice can easily but unfortunately end up overlooked.

#### vi) Baluchis

The Baluchi population in Turkmenistan is also small, estimated to be between 30,000 and 35,000. It has been present in Turkmenistan since the late 19<sup>th</sup> century, well before the period of Soviet rule. It is centered in the south of the country, around Mary. Many Baluchis speak neither Turkmen nor Russian, and are often targets of official discrimination and police brutality.

In concluding this survey of Turkmenistan's racial and ethnic demography, it should be noted that the human rights situation of the numerically smaller minority groups is often even more critical than that facing Turkmenistan's Russians and Uzbeks. These groups lack the numbers to command even a minimal voice within Turkmenistan. They also lack the numbers and the political clout to receive sustained outside attention from the governments of states where they are the majority population (e.g., Armenia). And they are frequently overlooked or marginalized when international attention, from both official bodies and civil society organizations, responds to the better-known plight of Turkmenistan's Russian and Uzbek populations. It is to be hoped that the present CERD discussions will correct this unfortunate tendency and address the human rights situation of *all* of Turkmenistan's racial and ethnic minority groups, including their freedom of worship; freedom of speech; freedom of movement; and right to education and employment.

### **Turkmenistan post-Independence: an Overview**

Turkmenistan gained its independence from the Soviet Union in 1991. The Constitution it adopted soon afterwards describes a separation of powers between the executive, legislative, and judicial branches of government, and offers strong declarations of democratic freedoms and human rights



protection for all citizens of Turkmenistan. The government of Turkmenistan devotes eleven paragraphs of its report to the CERD to a discussion of the country's constitutional structure (Para. 36-47).

However, the reality of Turkmenistan's political development during the past fourteen years is quite different, and can be summarized as follows: the increasing concentration of power in the executive branch, and the increasing subordination of all state organs and decision-making powers to the person of President Saparmurat Niyazov. The fact that Turkmenistan's report to the CERD does not mention President Niyazov by name once, nor acknowledge his personal role in the formulation and execution of government policy, casts grave suspicion on all of its claims about the operations and policies of Turkmenistan's government.

President Niyazov is the leader of the Democratic Party of Turkmenistan, and has been President of Turkmenistan since independence. He has remained President through a series of elections which raised serious concerns in the international community; the suppression of all political opposition; and a number of significant constitutional changes. Indeed, the constitutional changes of 2003 stripped Parliament of its already limited powers and elevated the so-called People's Council (Halk Maslahaty) to the status of highest legislative body in the country. Since President Niyazov is chairman for life of the Council, he is also effectively President for life. Turkmenistan's report to the CERD discusses the "paramount" power of the People's Council without any reference to President Niyazov's dominant role in it (Para. 37). While President Niyazov has promised to hold Presidential elections by the end of the decade (the precise date keeps shifting), his record while in office does not inspire confidence that he will follow through on such a 'promise'. Indeed, as the European Bank for Reconstruction and Development has commented, "there has been no movement towards a more open, pluralistic political system".

Turkmenistan may therefore legitimately be described as a one-party state with one-man rule. The implications of such a situation for civil and human rights, and for the rule of law, would be grave under any circumstances; but they are rendered even more troubling by the extreme and pervasive personality cult which President Niyazov has cultivated. As outside observers have astutely noted, this personality cult is often portrayed as the bizarre and colorful eccentricity of a leader who would otherwise attract little foreign attention. Certainly, it is difficult not to be amused at the idea of renaming a month after one's mother, celebrating a national holiday for the melon, or building a gold statue of oneself in the capital that revolves with the sun. First-time visitors to the country may also be surprised to see the President's portrait gracing vodka bottles. But for Turkmenistan's people, this cult of personality is very serious indeed, and has serious consequences for their present well-being and future capacity to exercise human rights and freedoms in accordance with international standards.

Such consequences will be enumerated in greater detail later, in discussions of the dominance of President Niyazov's writings in state education, and his promotion of them as holy texts on a par with the Koran. However, this personality cult has great potential to do direct harm to Turkmenistan's ethnic and racial minority populations. However vigorously Turkmenistan's constitution declares its commitment to equal rights for all citizens of Turkmenistan, President Niyazov has made it increasingly clear that he intends to 'Turkmenify' Turkmenistan. Indeed, the first slogan he chose for his rule was 'Golden Age for all Turkmen'; later modification of this to 'Golden Age for Turkmenistan' was merely cosmetic. President Niyazov has spoken publicly of the need to apply a third-generation Turkmen test on all aspirants to higher education or public employment. He made the following statement in a speech broadcast in December of 2002, as quoted by Amnesty International:

...in order to weaken the Turkmen, the blood of the Turkmen was diluted in the past. When the righteous blood of our ancestors was diluted by other blood our national spirit was low...Every person has to have a clean origin. Because of that it is necessary to check the origin up to the third generation.

The existence of such a policy had received international attention even before President Niyazov's explicit statement of the need for a 'third generation' test: at its 1507<sup>th</sup> meeting in March of 2002, the Committee noted that it had "received information alleging that the State party's present policy of promotion of Turkmen identity leads to discrimination against persons not of Turkmen ethnicity".

Moreover, many observers believe President Niyazov's recent references to the presence of 'unworthy elements' in Turkmenistan are code for Turkmenistan's Uzbek population. (However, Uzbeks are not the only target, as shown by President Niyazov's claim that the partial Armenian heritage of alleged plotter Boris Shykhmuradov had "diluted" his Turkmen blood and thus his patriotism). Such statements from the highest levels of the Turkmenistan government have directly and adversely impacted Turkmenistan's racial and ethnic minorities in multiple realms, including education and the labor markets, as will be discussed below.

Such statements, policies, and innuendos would be troubling enough coming from any national leader. They have the power to set the symbolic tone and the substance of public discourse; to influence public perceptions, particularly in times of economic hardship or perceived threats to national security; and to condone or even incite discriminatory actions on the part of both public and private actors. In a political culture like that in Turkmenistan, however, they are even more serious. President Niyazov's utterances are more powerful than any law on the books. His word dictates policy; indeed, it is no exaggeration to state that his word often becomes law. In one episode widely reported in the Western press, President Niyazov publicly criticized a young woman's gold teeth; soon after, many citizens replaced their gold teeth – which are popular in Turkmenistan – with white ones so as not to incur the President's displeasure. Such episodes would be amusing, were they not indicative of a much larger problem.

This subjection of all political power to the person of a ruler who so openly espouses preferential treatment for ethnic Turkmen and suspicion, distrust, and discrimination for Turkmenistan's minority populations creates a very precarious situation for Turkmenistan's ethnic and racial minorities. The absence of checks and balances in the system – whether a free press, opposition parties, or civil society organizations – and the arbitrary and unaccountable actions of the police and security services under President Niyazov's command only compounds the challenges and hardships they face. Their situation in Turkmenistan therefore demands careful examination. The following discussion analyzes in detail how Turkmenistan is meeting its obligations to the CERD – both the government's claims in its report, and the additional evidence available about the actual policies and practices of the government.

## **PART 2. Turkmenistan and the CERD**

Before analyzing Turkmenistan's report to the CERD and its compliance with the individual

articles and paragraphs of the Convention, it is appropriate to highlight some of the main rhetorical tactics deployed in the report. Unfortunately, their primary purpose is to obscure the current practices of the government of Turkmenistan. They include:

- i) Irrelevant information. For example, it is difficult to see how discussion of the textile industry (Para. 24), the wheat harvest (Para. 26) or the expansion of railway infrastructure (Para. 27-29) is relevant to the CERD. Similarly, sweeping generalizations about the “entire course” of Turkmen history are so unspecific as to be useless (Para. 48-50). Much of this information, if it is needed at all, would be more appropriately submitted as part of a “core document...containing basic, largely unchanging information about the State party”, as suggested under the United Nations Guidelines on International Human Rights Instruments (HRI/CORE/1).
- ii) Statements of the wording and rhetorical content of Turkmenistan’s laws, without any detailed or specific discussion of their implementation. This tactic pervades the report to the CERD. No specific examples or cases are ever offered as proof that the principles asserted in the laws are being carried out in practice. Indeed, other than a single paragraph discussing the ethnic and racial composition of the population, which is buried in the section “General Information on Turkmenistan” (Para. 12), no indigenous ethnic or racial group is ever cited by name (for refugees from Tajikistan and Afghanistan, see Para. 81).
- iii) Statements which obscure actual practice in Turkmenistan for those unfamiliar with the country. For example, the report to the CERD includes discussions of the course of study in Turkmenistan’s schools, and the range of topics covered (Para. 72, 177-179), yet fails to mention the sole reliance on President Niyazov’s Ruhnama for much of the curriculum. Similarly, assertions about the ethnic diversity of the public workforce (Para. 102) make no mention of the increasing obstacles minorities face in hiring in the wake of President Niyazov’s campaign to ‘Turkmenify’ Turkmenistan.
- iv) Blatant omissions of relevant information. The fact that President Niyazov, who dominates every aspect of public life in Turkmenistan, is never once mentioned by name in the report to the CERD is the most striking example of this. Similarly, any discussions of judicial procedure and legal due process in Turkmenistan which do not address the mass arrests and show trials in the wake of the reported assassination attempt on President Niyazov in November of 2002 cannot be deemed credible.
- v) Outright falsehoods. The assertions about the civil and political freedoms enjoyed by Turkmenistan’s citizens, and about their participation in free elections, contradict every available source of information outside the government of Turkmenistan itself, including exile reports, NGO analyses, official expressions of international concern, and the personal observations of anyone who visits the country.

With these general rhetoric tactics in mind, it is useful to consider the specific Articles of the CERD, and Turkmenistan’s claimed and actual compliance with them.

## **Article II, Paragraph 1: Elimination of Racial Discrimination from Public Institutions; Integrationist Multiracial Policy**

Article II, Paragraph 1 of the CERD states:

*States parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting*

*understanding among all races...*

It then proceeds to enumerate specific steps State parties must take. Sections (a) and (e) are particularly relevant for the case of Turkmenistan:

*(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;*

And:

*(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which strengthens racial division.*

Turkmenistan devotes 34 paragraphs of its report to the CERD outlining what it terms “General Measures of Implementation” of Article II (Para. 48-81). The government’s claims fall into four broad categories: constitutional and legal guarantees of ethnic and racial equality (Para. 51-57, 59, 63-67); recognition of international legal norms concerning racial discrimination (Para. 58, 60-2); individual rights to seek redress for acts of racial or other discrimination (Para. 68-70); and educational and other measures Turkmenistan is taking or has taken to keep its citizens informed of international human rights practices (Para. 71-80). Many of these claims are not directly relevant to the Article under discussion.

The actual practice of the government of Turkmenistan violates both of these paragraphs [(a) and (e)] of Article II of the CERD. First, contrary to Paragraph (a), Turkmenistan regularly engages in discrimination against its ethnic and racial minorities, and does so through public authorities and public institutions. Many of these practices will be discussed at greater length later in this report. They include discrimination against ethnic and racial minorities in public education, public health, and public sector employment. They also include toleration of unequal treatment of minorities by local authorities, including the police, extending to harassment and police brutality. The discrimination is condoned at the highest levels of the government when President Niyazov speaks of the need to apply a ‘third generation Turkmen test’ for access to education and employment.

Second, contrary to Paragraph (e), the government of Turkmenistan pursues a policy which actively *encourages* racial division and barriers between races in Turkmenistan. This includes specific policies intended to ‘Turkmenify’ the labor force and the professional classes, most explicitly the ‘third generation Turkmen test’ mentioned above. It also includes the persistent celebration of ethnic Turkmen culture as the only legitimate national culture in the mass media. Moreover, President Niyazov’s Ruhnama, which dominates the school curricula in Turkmenistan and is now required reading even for obtaining a drivers license, is an extended paean to the glories of the Turkmen people and of Turkmen culture. In it, for example, he declares that “the real unity of Turkmen is blood and language unity” (Para. 23). This statement recalls President Niyazov’s speech, quoted above, in which he referred to the “dilution” of the “righteous blood of our ancestors” and its weakening effect on the “national spirit”. In practice, such rhetoric creates and encourages the very divisions in a multi-ethnic society which Paragraph (e) is designed to eliminate. In the words of the OSCE Special Rapporteur, it is “contrary to all international principles”.

## **Article II, Paragraph 2: Development and Protection of Certain Racial Groups**

Article II, Paragraph 2 of the CERD includes the following:

*States parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of*

*certain racial groups and individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.*

The government of Turkmenistan devotes only one paragraph of its report to the CERD to this provision of the Convention, but it is a very important paragraph nonetheless. The government uses this provision as an opportunity to showcase its treatment of refugee populations, highlighting its work with relevant international agencies in facilitating the resettlement in Turkmenistan of refugees from Tajikistan and Afghanistan in particular, as well as “Armenia and other countries” (Para. 81). It is worth noting that this paragraph of Turkmenistan’s report to the CERD is the only one where specific minority groups are actually named in a discussion of the government’s implementation of the Convention.

The government of Turkmenistan does indeed have a history of working in cooperation with international humanitarian aid agencies in resettling refugees from Tajikistan and Afghanistan in Turkmenistan. In spite of its declared neutrality – which it has misrepresented as being a conferred UN status – it also offered overflight rights for humanitarian aid to reach Afghanistan after the commencement of hostilities in 2001. This aspect of Turkmenistan’s human rights practices deserves the positive international recognition it has received from the United Nations High Commissioner on Refugees.

Nonetheless, three observations are in order. First, it is difficult to see how refugee resettlement fits the terms of Article II, Paragraph 2, unless one takes a narrow and eccentric reading of the term “certain racial groups and individuals *belonging to them*” (emphasis added). Nothing in the Guidelines for State party submissions to the CERD mentions refugees in the context of compliance with Article II, Paragraph 2 of the Convention.

Second, the government fails to mention that the majority of these refugees are ethnic Turkmen who fled Tajikistan and Afghanistan during the 1990s. Thus, while they are indeed small in number as refugee communities – approximately 11,000 from Tajikistan and 500 from Afghanistan – and do not possess citizenship in Turkmenistan, they are not racial and ethnic minorities. The government’s treatment of them, however admirable, is thus not an indicator of its compliance with the CERD. Moreover, many of the Armenian refugees in Turkmenistan have had to return to Armenia because of their lack of either citizenship or valid visa status in Turkmenistan.

Third, the government of Turkmenistan has also omitted mention of any of its longstanding ethnic and racial minorities. By any definition, these groups “belong” to Turkmenistan; indeed, many of them, such as the Uzbeks and Baluchis, as well as the majority of the country’s Armenian population, have lived in the territory of Turkmenistan not only long before its sovereign statehood, but long before the Soviet era. Although the government of Turkmenistan celebrates Turkmenistan’s history as a “crossroads between east, west, north and south” and its “essentially internationalist...mentality” (Para. 49), it does not take this opportunity to discuss any positive measures it has taken to ensure their development and protection, and to guarantee their freedoms – because no such measures have been taken.

### **Article III: Eradication of Racial Segregation and Apartheid**

Article III of the CERD states:

*States parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.*

The government of Turkmenistan addresses its commitment to this article in five paragraphs of its report to the CERD (Para. 82-86). These paragraphs primarily include restatements of the protections the government claims to offer against racial discrimination (Para. 83-85), as well as specific condemnations of apartheid and genocide (Para. 82, 86).

Turkmenistan does not practice apartheid or genocide. Its assertion that “[t]here is no good reason why segregation or apartheid should exist in Turkmenistan” (Para. 82) is absolutely accurate. Nonetheless, reports of ethnic and racial discrimination are widespread, and include the forced displacement of minority populations, as will be discussed below.

#### **Article IV: Condemnation of Racial Propaganda and Hatred**

Article IV of the CERD states:

*States parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form...*

It also includes the following section of particular relevance for the situation in Turkmenistan:

*(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.*

The government of Turkmenistan devotes five paragraphs of its report to the CERD to this Article of the Convention (Para. 87-91). These paragraphs discuss prohibitions on promotion of ideas of racial superiority in the mass media (Para. 87); bans on the formation of parties and organizations, political (Para. 89) or religious (Para. 90), which advocate or incite ethnic or racial hatred; and assurances that all levels of government act in accordance with these mandates (Para. 91).

Section (c) is similar in intent to Article II, Paragraph 1 (a), discussed above.

Freedom of speech in Turkmenistan will be discussed below under Article V, Section (d) (viii). Nonetheless, the focus of this Article on “propaganda” has special relevance for the case of Turkmenistan. Official state propaganda is all-pervasive in Turkmenistan. The main theme of all of this propaganda can be described as ethno-nationalist. That is, it celebrates sovereign Turkmenistan as the traditional homeland of the Turkmen people. It elevates their culture and heritage and language above that of all other constituent peoples in Turkmenistan’s population, and essentially equates the nation of Turkmenistan with the Turkmen people (declarations of devotion to “inter-ethnic...harmony” [Para. 82] notwithstanding). This is true both of cultural programming, which consists primarily of dance and song performances dedicated to President Niyazov, and of “patriotic” programs, such as “The Lessons of the Great Saparmurat the Turkmenbashi!” or “The XXI Century as the Golden Century for the Turkmen People!” This message is broadcast to the public in all mass media (radio, television, newspapers). It also dominates the school curriculum, since President Niyazov’s Ruhnama is the central textbook in virtually all classroom contexts and President Niyazov occupies such a dominant position in the country’s public life. Therefore, official state propaganda in Turkmenistan is indeed based upon an idea “of [the] superiority of one...group of persons of one...ethnic origin”. Turkmenistan is not meeting its obligations under Article IV of the CERD.

#### **Article V: Prohibition and Elimination of Racial Discrimination in All Its Forms**

Article V of the CERD states:

*...States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law...*

Article V then proceeds to enumerate the particular rights at issue. These include: equality before the law (section *a*); security of person and protection against bodily harm (section *b*); political

rights (section *c*); civil rights (section *d*); and economic, social, and cultural rights (section *e* ). Many specific rights are listed, including freedom of movement (*d*: i); freedom of thought, conscience and religion (*d*: vii); freedom of speech and of peaceful assembly (*d*: viii, ix); the right to public health and medical care (*e*: iv); and the right to education and training (*e*: v). The report that follows will examine each of these areas closely.

Turkmenistan devotes 77 paragraphs of its report to the CERD to this Article of the Convention (section *a*: Para. 92-97; section *b*: Para. 98-101; section *c*: Para. 102-107; section *d*: Para. 108-128; section *e*: Para. 129-168). In addition to extensive citation of Turkmenistan's constitution and relevant legal statutes, the government's report contains a number of assertions about actual practice in Turkmenistan. The following discussion holds some of these assertions up against the actual record of the government.

### **Article V, Section (a): The Right to Equal Treatment before the Law**

The government of Turkmenistan devotes five paragraphs of its report to this Section of Article V (Para. 93-97). It claims that all citizens of Turkmenistan are considered equal before the law, and are treated as such (Para. 94-95). It also claims that "judicial power in Turkmenistan belongs solely to the courts provided for by the law" (Para. 93) and that judges are "independent, subject only to the law, and guided by their inner convictions" (Para. 97). While it does acknowledge Presidential authority to dismiss judges, it claims that such discretionary authority is bounded by the law (Para. 97).

The reality is quite different. No independent judiciary exists in Turkmenistan. Dramatic and troubling confirmation of this occurred in the wake of the reported assassination attempt on President Niyazov in November of 2002. The arrest and 'trials' of the many suspects apprehended in the ensuing crackdown of alleged traitors and conspirators drew widespread international condemnation. Indeed, the OSCE invoked its rarely used 'Moscow Mechanism' and appointed a Special Rapporteur to investigate the government's actions. Unlike many judicial proceedings in Turkmenistan, whose abuses and irregularities occur far from public or international scrutiny, the show trials of the alleged conspirators were broadcast on state television. Suspects – many of whom had apparently been drugged – read obviously forced confessions. No cross-examination was allowed or presumption of innocence extended to the defendants. Explicit reference to the Russian or Armenian ethnicity or dual citizenship of some of these defendants was intended to cast further suspicion upon their loyalties and motives. Moreover, since the contents of the indictment were not disclosed to the accused, they were unable to prepare any defense. Indeed, no evidence was proffered other than their suspect 'confessions'. It came as no surprise whatsoever when all those arrested were convicted and sentenced to long jail terms. Rather than be offered any right of appeal, they had a series of 'accessory penalties' added to their initial sentences, ranging from fines of \$2.8 million to the imposition of titles such as 'betrayers of the nation'. The OSCE Special Rapporteur's report deems the trial conditions "appalling", and the trial "a blatant denial of justice".

The trial of the alleged conspirators was a uniquely high-profile event, concerning as it did the stability of the government and the person of the President. Nonetheless, average citizens of Turkmenistan experience comparable denials of basic rights in their encounters with the legal system. Indeed, while some avenues of appeal for unfair convictions are available to citizens of Turkmenistan – in particular, direct appeal to the President for clemency – reports of unfair judicial practices are widespread. These include lack of access to defense counsel; lack of access to government evidence against a defendant; use of evidence obtained through torture; government refusal to allow defendants to question witnesses; and most fundamentally, lack of any presumption of innocence. No acquittal in a criminal case has occurred in the past five years. Furthermore, citizens have been arrested and fined by the authorities for violations of laws which the government refuses to disclose to them. Approximately 100 citizens were placed under house arrest in March 2003, simply to prevent them from meeting with the OSCE Chairman-in-Office during his visit to Turkmenistan; some remain under house arrest, or are forbidden to leave their regions of residence.

It is also worth noting that such denials of basic rights predate the reported assassination attempt against President Niyazov in November 2002, as the continued incarceration of Mukhametkuli Aymuradov on 1995 charges of attempted terrorism indicates. Mukhametkuli Aymuradov was reportedly denied both a fair trial and fair treatment while in jail, as reported by Amnesty International.

Occasionally, international pressure can have some effect. The case of Farid Tukhbatullin is instructive in this regard. Farid Tukhbatullin, a civil society activist and co-chair of the Dashowuz Ecological Club, was arrested and jailed in April 2003 after attending a conference in Moscow sponsored by the International Helsinki Federation and the Memorial Human Rights Center. The official charges were illegally crossing the Turkmenistan-Uzbekistan border, and possessing secret evidence of exile plotting to stage an armed coup. His real crime, however, was his civil society activism and his exercise of his right to free expression. No observers were allowed at his four-hour trial, which resulted in a three-year jail term. Farid Tukhbatullin was released shortly after his case was personally raised in Turkmenistan by the Chairman-in-Office of the OSCE. While a positive response, it does little to address the systemic and politically motivated abuses of the judicial system. It should also be noted that Farid Tukhbatullin now lives in exile in Europe; he has been freed, but his voice within Turkmenistan remains effectively silenced.

Others are forced into internal exile, such as Sazak Begmedov. An elderly man, Sazak Begmedov was apprehended by the police in Ashgabat in August of 2003 and resettled to Dashowuz. His passport was confiscated and he was beaten and kicked while the police were transporting him to the airport. The police refused to offer him any explanation for his resettlement, or to register his complaint about his mistreatment. His 'crime' is apparently the human rights work of his daughter, Tadzhiagul Begmedova, who has formed an exile human rights group in Bulgaria. Sazak Begmedov's case, as reported by Amnesty International, raises numerous human rights concerns, including arbitrary arrest; denial of due process; denial of legal representation; police brutality; and forced resettlement. He remains confined to Dashowuz. As the OSCE Special Rapporteur forcefully remarked, "the contrast between the law as it is presented and the reality marked by terror and fright is mind-boggling".

#### **Article V, Section (b): The Right to Security of Person and Protection by the State against Violence or Bodily Harm**

The government of Turkmenistan devotes four paragraphs of its report to this Section of Article V (Para. 98-101). It makes a number of generalized statements of respect for the integrity of persons (Para. 98); notes its abolition of the death penalty (Para. 99); and offers assurances about the legality and restraint of investigate actions (Para. 99).

Unfortunately, and in contradiction to the government's claims, reports of arbitrary detention, and of police harassment and brutality are widespread in Turkmenistan. Those affected extend from the religious groups discussed below (Article V, Section d:vii) to any persons or groups who attempt to assume any public voice outside the confines of the regime's ideology and sponsorship. Tactics deployed by the police and security services range from verbal intimidation and detention without charge to physical intimidation and torture. On very rare occasions, public protests seek to draw attention to such abuses: on April 15, 2002, three hundred citizens demonstrated outside the Committee on National Security (KNB) headquarters in Ashgabat, demanding that KNB officers be punished for abuses of power, including rape of Turkmenistan citizens.

Independent journalists are a particular target of police violence, as the repeated beatings of Radio Liberty correspondent Saparmurad Ovezberdiev indicate. Indeed, such violence can reach beyond Turkmenistan's borders: one opposition leader, Avdy Kuliev, and another Radio Liberty correspondent, Makhamedgeldi Berdiev, were attacked and beaten in Moscow in 2003 and 2004, respectively. Turkmenistan's official involvement in these crimes was suspected at the highest levels of the Russian government, and eight officials at the Turkmenistan embassy in Moscow were



reportedly asked to leave Russia for their involvement in planning these, and other future, attacks. Other targets of violence and intimidation include family members and friends of alleged criminal suspects, as a way of forcing confessions.

For those convicted and sentenced to jail terms, prison conditions are extremely harsh and often life-threatening; overcrowding and disease are rampant. Prisoners in need of medical treatment report being beaten enroute to the hospital. Reports have emerged since 2002 of the construction of special, 'secret' detention facilities in the Turkmen desert, where high priority detainees are subject to particularly brutal treatment without any hope of appeal, or observation by outside monitors. Such detainees include those deemed threats to national security, many of whom are members of racial and ethnic minority groups, particularly Uzbeks. Suspects and detainees enjoy no access to counsel, and no avenues of appeal or recourse for arbitrary, unfair, or violent treatment at the hands of the authorities; indeed, even family visits are strictly limited and often possible only after offering generous bribes to the relevant authorities. Police harassment and brutality at the local and regional levels reflect a systemic neglect of even the most basic civil rights – often an outright hostility to them – which extends to the highest levels of the government of Turkmenistan. Its rhetorical assertions of humanitarian concern for the people of Turkmenistan cannot and should not obscure this troubling record.

The government concludes this part of its report by noting that “no racial crimes have been recorded in Turkmenistan in recent years” (Para. 101). This may be true of recorded crimes against persons; in spite of much official practice, popular attitudes in Turkmenistan are generally tolerant of ethnic diversity. However, the repressive political climate in Turkmenistan, and in particular the government’s attitude toward such prominent minority groups as Russians and Uzbeks, discourages the reporting or the recording of any incidents that might take place. Many obstacles to reporting crimes exist, from police corruption and indifference to lack of confidence in the impartiality, independence, and efficacy of the legal system. To cite one example of relevance to both ethnic and religious minorities, the police have failed to identify and arrest those responsible for the vandalism of a number of Armenian cemeteries in recent years, or even to investigate the crimes.

### **Article V, Section (c): Political Rights**

The government of Turkmenistan devotes six paragraphs of its report to these political rights of voting, standing for election, and access to public service (Para. 102-107). It claims that the 1999 elections in Turkmenistan gave voters “a real choice” (Para. 105); that more than one political party exists and operates freely in the country (Para. 104); and that “[o]fficial posts in Turkmen state and administrative bodies are occupied by people from a variety of ethnic backgrounds” (Para. 102). It also includes the following sweeping assertion: “There are no *de facto* or *de iure* prohibitions or restrictions on citizens’ political rights in Turkmenistan” (Para. 102).

Other sections of the present analysis address the question of freedom of political assembly in Turkmenistan (Article V, Section d: ix) and of access to public service (Article V, Section e: i). Here, however, it is worth noting that no elections held in Turkmenistan since independence have met even the barest of international standards for transparency or free choice. Indeed, the OSCE center in Ashgabat “said that the 6 April [2003] elections violated all principles of western democracy”. When elections are held at all, President Niyazov consistently wins enormously high percentages of an enormously high turnout. Figures such as a 99.8% turnout or support for President Niyazov from 99.9% of voters are typical in Turkmenistan. In one sense, the latter figure may have an unintended accuracy, since it reflects a situation in which voters are offered no choice other than the President himself. (Even such parliamentary ‘candidates’ as do exist have already been pre-approved by the President). Political parties based on national, ethnic or religious affiliation are explicitly prohibited in Article 28 of Turkmenistan’s Constitution. The government’s blanket claim that no restrictions exist on citizens’ political rights – and in particular, on the political participation of ethnic and racial minorities – is therefore simply unsupportable, as its entire human rights record amply demonstrates. This conclusion echoes that of the United Nations

Human Rights Commission, which expressed “its grave concern...at the persistence of a Government policy based on the repression of all political opposition activities”.

### **Article V, Section (d) (i-iii): Freedom of Movement and the Right to Nationality**

The government of Turkmenistan devotes four paragraphs of its report to this Section of Article V (Para. 108-111). In spite of its claim that every citizen enjoys “freedom of movement and choice of residence within the borders of the state” (Para. 108), the free movement of peoples is severely restricted in Turkmenistan. While many of the restrictions on free movement affect all citizens, some have directly and explicitly targeted specific racial and ethnic minorities. Areas of particular concern to the racial and ethnic minority populations in Turkmenistan include: freedom of internal movement; freedom to leave and then return to Turkmenistan; forced resettlement within Turkmenistan; and dual citizenship rights with Russia.

Internal movement within Turkmenistan is controlled in a number of ways. Everyone must carry a passport for internal travel; frequent roadblocks and document checks ensure compliance with this requirement. These internal travel documents include a citizen’s place of residence. This immediately identifies to the authorities residents of ‘sensitive’ border areas, many of whom are members of ethnic and racial minorities, especially Uzbeks. In addition, by identifying residents of Ashgabat, these internal passports act as a control on internal migration to the comparatively greater economic opportunities in the capital, as well as its opportunities for the expression and mobilization of political opposition to the regime. At the same time, special permits are required for travel to border regions, which are time-consuming and often impossible to obtain. Turkmenistan admits in its report to the CERD that it retains the right to restrict movements to these areas on national security grounds (Para. 108). Given its tense relationship with Uzbekistan, and the sensitivity of its borders with Iran and Afghanistan, national security concerns undoubtedly exist. But the consequence – related to CERD – is disproportionate restriction on the movements of Turkmenistan’s racial and ethnic minorities, the majority of whom occupy the 40% of Turkmenistan’s territory deemed ‘border’ by the authorities. Indeed, an estimated 40% of the population inhabits these parts of the country. (Much of the interior of Turkmenistan is uninhabited desert, as will be discussed below).

Citizens of Turkmenistan wishing to leave the country to conduct business, seek education, or visit relatives abroad no longer require exit visas, as the government notes in its report (Para. 109). Previously, exit visa requirements were imposed in the wake of the reported assassination attempt on President Niyazov in November 2002, but removed again under criticism from the international community. This does not mean that free movement into and out of Turkmenistan exists for Turkmenistan’s citizens, however. Although the authorities deny it, it is widely believed that a ‘black list’ of citizens prohibited to travel abroad remains in force. Estimates of the number of citizens on this list range from 2500 to 19000; it must be assumed that many of those on the list are Uzbek and Russian, given the continuing official suspicions of the loyalties of these populations. Even when departure from Turkmenistan is not prohibited in these ways, those wishing to depart by air face arbitrary denial of boarding on flights out of the country, particularly to Moscow. Furthermore, high tariffs seek to impede much personal trans-border activity. This includes Turkmen marriage to an Uzbek living in Uzbekistan, and Uzbek travel to Turkmenistan to bury an Uzbek relative living in Turkmenistan. In practice, therefore, exit from Turkmenistan remains extremely difficult for the majority of citizens, further deepening Turkmenistan’s isolation not only from the international community but from its own neighbors; certainly, citizens of Turkmenistan do not have the right “to enter and leave the country as they please” (Para. 109), and members of ethnic minorities face even greater obstacles in seeking to exercise this right.

As mentioned above, much of the interior of Turkmenistan’s territory is uninhabited desert, and much of the officially suspect minority population inhabits Turkmenistan’s sensitive border areas. The idea of the internal resettlement of such populations, particularly Uzbeks, to this uninhabited desert is therefore appealing to the authorities. The harsh climate and severely limited economic

opportunities in these deserts, which are among the world's hottest, offer little impediment to forced resettlement, particularly in a society with no effective rule of law or avenues of redress for punitive and discriminatory state action. Indeed, President Niyazov himself has asserted the desirability of relocating ethnic Uzbeks to such regions, such as the proposed 'Golden Century Lake' in the middle of the country. Nor is this simply an idle threat: President Niyazov issued a decree in November 2002 for the forcible resettlement of the populations of three largely Uzbek regions (Dashowuz, Lebap and Ahal) to an uninhabited and uninhabitable desert in northwestern Turkmenistan. This decree has already been partially implemented. In addition to the enormous personal toll such a policy will have on individuals and families, one result of these resettlements will be to render Turkmenistan's Uzbek minority more fragmented and more invisible. From the perspective of the authorities, that will diminish their perceived threat; from the perspective of CERD, it is clear evidence of state policies which discriminate against ethnic minorities.

Until 2003, citizens of Turkmenistan could possess citizenship of both Russia and Turkmenistan, and many of Turkmenistan's ethnic Russians took advantage of this dual citizenship privilege. It was tangible proof of their continuing ties to Russia after independence. On a practical level, it not only eased their exit from and re-entry into Turkmenistan, but at least in theory guaranteed Russian oversight and representation of their interests and rights while in Turkmenistan. Perhaps for these very reasons, Turkmenistan and Russia annulled this agreement in 2003. President Niyazov made clear his views on dual citizenship at a meeting of the Cabinet of Ministers in April 2003:

The President of Russia and I discussed this issue for a long time...Now the Interior Minister, the Foreign Minister, the Border Guard, the local governments must find out the people with "dual citizenship". Each one of them has to pick a country of which he will be citizen. But he can have only one citizenship. He will not need two passports now. For the purity of the state, a single citizenship must be introduced to bring an end to this chaos. And control must be monitored locally.

Shortly after President Niyazov made this speech, the Constitution of Turkmenistan was amended to state that Turkmenistan does not recognize the citizenship of other countries (Constitution of Turkmenistan, Article 7).

Furthermore, the government of Turkmenistan then unilaterally decreed that Russians holding dual citizenship – many of whom had lived in Turkmenistan their entire lives – had two months to choose between citizenship of Russia or Turkmenistan. Bureaucratic chaos ensued as the authorities sought to implement the new rules; and ethnic Russians who decided to emigrate faced a very small window of time in which to arrange their property and affairs before their departure. As a result, many left in haste, abandoning apartments and property in the process. Indeed, housing prices in Ashgabat fell as much of the Russian community made a hasty exodus from the capital. As a result of a subsequent Turkmenistan-Russia Special Commission on dual citizenship, some of the pressures on Russians still living in Turkmenistan have lifted: for example, Russians possessing dual citizenship no longer require exit visas to leave Turkmenistan. Nonetheless, the legal status of persons still possessing dual citizenship remains undefined. It is worth noting that the government of Turkmenistan does not mention dual citizenship with Russia anywhere in its report to the CERD; the result of government policy has been to deprive some citizens of their nationality, in contravention of the government's claims (Para. 110).

Each of these highly restrictive policies on the free movement of people has had an adverse, and often intentionally disproportionate, impact on Turkmenistan's racial and ethnic minority populations. They are denied any easy access to their friends and family outside the country. They are denied full access to the opportunities available within Turkmenistan itself. They are deprived of rights to which they are entitled by national and international law. And they are subject to arbitrary and capricious treatment which not only unilaterally annuls important legal privileges, but has also begun to force their internal displacement. The impact on their well-being and participation in Turkmenistan's society is obvious. Less obvious but also important is the impact of

such policies on Turkmenistan itself – increasingly distrustful of its own citizens and increasingly isolated from its neighbors, by unjustly punishing its minority populations it is also punishing itself and limiting its own future prospects, as will be seen in another context in the discussion of education (Article V, Section e: v).

### **Article V, Section (d) (vii): Freedom of Thought, Conscience and Religion**

The government of Turkmenistan devotes four paragraphs of its report to this Section of Article V (Para. 117-120). Its claim that “Turkmen law poses no restrictions on the registration or activities of religious groups and organizations, provided their activities do not contravene the Constitution” (Para. 118) does not withstand scrutiny. Nor does the claim that “[t]he State provides citizens with every facility to exercise their constitutional right to religious freedom” (Para. 119). While the number of houses of worship has increased since the transition from officially atheist Soviet rule to officially secular sovereignty (Para. 119), state control of religious activity remains intrusive and pervasive. Indeed, President Niyazov himself has expressed extreme skepticism about the value of religious pluralism: in a speech to the Council of Ministers on July 1, 2005, he stated that “we have one religion and unique traditions and customs, and there is no need for people to look beyond these”. Such a statement directly contradicts the declared policies and principles of his own government.

The interplay between ethnicity and religious confession in Turkmenistan is complex. Some religious minority groups, such as the Russian Orthodox Church or Shiite Islam, are clearly associated with a specific ethnic minority (Russians and Azeris, respectively). In other instances, an ethnic minority may practice the Sunni Islam of the ethnic Turkmen majority, but nonetheless be singled out for discriminatory treatment by the authorities. This is particularly the case with Turkmenistan’s Sunni Uzbek population. In still other instances, a religious confession, such as Jehovah’s Witnesses or Baptists, may be subjected to unequal treatment without being explicitly associated with a particular ethnic minority. Finally, it must be noted that ethnic Turkmen who practice a minority faith rather than the Sunni Islam of the Turkmen majority face both public and official suspicion of their loyalties and motives.

Religious communities wishing to practice and worship in Turkmenistan must register with the government. Prior to 2003, the only two confessions allowed registration were Sunni Islam and the Russian Orthodox Church, and the law on registration of religious groups restricted official recognition and registration to groups that could prove they had more than five hundred members. All religious confessions other than Sunni Islam and the Russian Orthodox Church were illegal; forced to operate underground; and subject to harassment and intimidation from the authorities. State confiscation of church or mosque property is not unheard of. A series of Presidential decrees in 2004, adopted in response to pressure from the international community, relaxed the registration requirements and permitted groups of as few as five members to register with the government. Nonetheless, many religious confessions remain unregistered, and thus illegal, including the Armenian Apostolic Church, Shia Islam, and Jehovah’s Witness. Newly registered confessions include Seventh Day Adventists, Bahai, Baptists, and Hare Krishna.

This relaxation of registration rules is a welcome development; although concerns about official harassment and intimidation remain, most newly registered religious groups report a substantial diminution of attention from the authorities as a consequence of their registered status. Nonetheless, it is important to note what has *not* changed as a result of this new law. Unregistered religious activity remains illegal, and religious gatherings in private homes remain particularly suspect to the authorities. Recently, police raided the home of Asiya Zasedatelevaya in Turkmenabat, where she met for Bible study with other Baptists, beat her with her Bible, and threatened to hang her. Moreover, registration has not been a simple or straightforward process for many groups, nor have all groups been registered. While this may reflect uncertainty at the local level about how to implement the new national law, it may also reflect a resistance in practice to full enforcement of the new rights available in the law. In addition, the general climate of state

surveillance of citizen activity in Turkmenistan has made many reluctant to offer their names for the required registration forms; many fear that making an official statement of their religious confession will leave them open to later abuses from the authorities. The United Nations Commission on Human Rights cited a number of such abuses at its 61<sup>st</sup> Session, including the case of Gulsherin Babakulieva, a female Jehovah's Witness who was threatened with rape by two public prosecutors merely for "discussing [her] faith with others".

An equally important concern is continued meddling in the supposedly legal activities of *registered* religious groups; registration is no guarantee of freedom from state surveillance. Members of newly registered groups have reported police interference with their services, as the United Nations Commission on Human Rights has noted with concern. Uzbek Sunnis, whose Islam is more orthodox than the syncretic Islam practiced by many Turkmen, must worship under Turkmen imams in state-sponsored mosques; indeed, Nasrullah ibn Ibadullah, an ethnic Uzbek and chief mufti, was jailed for his suspected but unproven involvement in the assassination attempt on President Niyazov in November of 2002. All Sunni officials must be approved by the state; the result has been the replacement of Uzbek imams with ethnic Turkmen imams, many of whom lack formal religious training. Education of imams in Uzbekistan, once common, has ceased. The official Sunni Islam practiced by the state promotes President Niyazov's own writings alongside the Koran – a practice which state-appointed imams do not openly oppose, but which many Sunnis find offensive if not a clear violation of religious freedom. The Russian Orthodox Church also suffers from many restrictions on its activities, including restrictions on travel to and from Russia and a prohibition on importing the journal of the Russian Patriarchate. Thus, while registered religions clearly possess a certain privileged status in Turkmenistan, the practical realities they face unfortunately reflect discriminatory measures regarding the exercise of thought, conscience, and religion.

In summary, ethnic minorities enjoy few guarantees when it comes to freedom of religion in Turkmenistan, and the President's own remarks do not inspire confidence in the seriousness of the government's commitment to religious pluralism. Belonging to a numerically tiny group offers no escape from official surveillance or other restrictions. Belonging to a registered religion offers no promise of freedom from further interference. Proclaiming adherence to the Sunni Islam of the Turkmen majority does not obscure or negate suspicion on the basis of one's ethnicity in the eyes of the authorities. While formal recognition of minority religious groups is to be commended and further encouraged, the freedom of religion of Turkmenistan's minority populations remains precarious and incomplete.

#### **Article V, Section (d) (viii): The Right to Freedom of Opinion and Expression**

The government of Turkmenistan devotes four paragraphs of its report to freedom of expression under Article V (Para. 121-124). It claims that "[P]ractical opportunities are offered for exercising the right to freedom of opinion and expression" and that "citizens are guaranteed the right to obtain and pass on information, and they have the opportunity to use the press, television, radio and other publicly accessible media for this purpose" (Para. 122). In fact, while media such as television and radio are widely accessible in Turkmenistan, the public enjoys no rights whatsoever to shape or challenge their contents. No media sources can begin or continue to operate in Turkmenistan without President Niyazov's personal approval: "the registration of new media is the exclusive prerogative of the President, and is regulated not by law, but by the President's directives". As a result, private media sources are essentially nonexistent.

Freedom of speech does not exist in Turkmenistan. The OSCE, in its Report on the Media Situation in Turkmenistan, noted with concern that "an absolute monopoly of the state over all media exists in Turkmenistan. The rules that govern the work of the media in that country are completely different from other OSCE participating States". These state-controlled mass media devote much of their programming to celebrations of ethnic Turkmen culture – one more sign of the exclusion of minority populations from the national discourse. Internet access is essentially

unavailable to all but the tiniest minority of the population. Foreign publications are banned, and are regularly confiscated at the border. Foreign reporters, particularly Russians, are harassed, and citizens of Turkmenistan actively discouraged from contact with them. The Russian language Radio Mayak was suspended in 2004. The BBC does not operate a Turkmen language service, although Radio Liberty does. Uzbeks and other minorities have even less access to independent media which might reflect or comment on their concerns. Thus, few alternative media voices are available to the average citizen of Turkmenistan; he or she is essentially dependent on tightly controlled state media for both news and analysis of domestic and international affairs.

When alternative viewpoints succeed in reaching the people of Turkmenistan – or even attempt to reach them – the consequences can be severe. Two recent episodes are instructive in this regard. Rakhim Esenov's work "The Crowned Wanderer" is an historical novel set during the Moghul empire (16<sup>th</sup> century CE) and centering on the historical personality Bayram-han Turkmen. It was banned from publication in Turkmenistan for ten years. Esenov had the book printed in Moscow and imported it into Turkmenistan. The police seized the books from his Ashgabat apartment on customs charges in February of 2004, and burned them. Esenov was charged with "inciting social, national [ethnic] and religious hatred" through the mass media – a violation of Article 177, Parts 1 and 2, of the Turkmenistan Criminal Code. Although subsequently released from prison under international pressure, he remains confined to Ashgabat under close police surveillance. His crime apparently consisted of comments made by characters in his historical novel, which the Turkmenistan authorities considered defamatory of the current government and the person of President Niyazov.

During the same period in 2004, the Russian RTV network announced its plans to air a documentary on narcotics smuggling in Central Asia which included Turkmenistan. (Satellite dishes are common in prosperous areas of Ashgabat, although they receive mainly Russian entertainment programming, which rarely mentions Turkmenistan). Extensive protests from the government of Turkmenistan were unable to halt the broadcast, which aired in February of 2004. In response, President Niyazov ordered the destruction of the Pushkin State Theater in Ashgabat. Although widespread international outrage forced the President to find a new home for the theater troupe and allow it to resume operations in the fall of 2004 – albeit in much reduced circumstances – the 79-year-old theater was demolished. Although this cannot be considered an act of racial and ethnic discrimination *per se*, it was particularly shocking and distressing for Ashgabat's Russian population.

These episodes make clear the extent of official intolerance of any views of the present government and situation in Turkmenistan, or of the history of the Turkmen people, which do not conform precisely to those promoted by the state itself, and in particular by President Niyazov in the Ruhnama. It is difficult to argue with the conclusion of the OSCE Report on the Media Situation in Turkmenistan: "censorship in Turkmenistan is total".

#### **Article V, Section (d) (ix): The Right to Freedom of Peaceful Assembly and Association**

The government of Turkmenistan devotes four paragraphs of its report to freedom of association, as cited in Article V (Para. 125-128). The government notes that "the Turkmen Constitution guarantees freedom of peaceful assemblies, rallies and demonstrations" (Para. 125). It claims that "State bodies and their officials are not permitted to interfere in the operation of voluntary associations" (Para. 126) that "[i]n pursuit of their aims and objectives these associations hold meetings, rallies, and processions" (Para. 127); and that "Turkmen electoral law guarantees citizens freedom to assemble" (Para. 127), thus explicitly linking freedom of assembly with freedom of political activity.

In practice, however, freedom of assembly is severely curtailed in Turkmenistan. Private religious gatherings are closely monitored by the authorities, and any hints of spontaneous, grass-roots public assembly are quickly suppressed. Of course, few citizens of Turkmenistan dare such public

displays in the first place. But isolated instances have occurred. As recently as July of 2004, it was reported that anti-Niyazov leaflets were distributed in Ashgabat; needless to say, they were quickly confiscated by the authorities. In such a context, any expressions of opposition to the Niyazov regime are extremely difficult, extremely dangerous, and often impossible. One activist, Gurbandurdy Durdykuliev, was confined to a psychiatric hospital simply for writing a letter to President Niyazov and his local governor seeking permission to organize a peaceful demonstration criticizing the government's policies – a right ostensibly guaranteed him under Turkmenistan's own laws and those of the international conventions to which it is party. In practice, the government treats all expressions of political opposition as tantamount to treason; the Democratic Party of Turkmenistan is the only legal political party in the country, in spite of the government's implication in its report that multiple political parties exist (e.g., Para. 127).

Those opponents of the regime who are not in jail for their views have largely emigrated. While exile gives them personal freedom, and the ability to draw the attention of the international community to conditions within Turkmenistan, it also further reduces the possibility that viable alternative views will be heard within Turkmenistan itself.

### **Article V, Section (e) (i): The Right to Work**

The government of Turkmenistan devotes thirteen paragraphs of its report to labor rights, as set forth in Article V (Para. 129-141). It notes that Turkmenistan's Constitution guarantees its citizens "the right to free choice of employment" (Para. 129). Furthermore, the government asserts that "no direct or indirect restriction of rights or direct or indirect preference in hiring procedures is permitted on ground of...ethnic origin...or any other considerations unconnected with a worker's professional merits" (Para. 130). The government makes frequent reference to the employment status of women in Turkmenistan (Para. 131-132, 134-138, 140-141), but no mention of the ethnic and racial composition of the labor force. In fact, ethnic and racial minorities face significant restrictions on their participation in the labor force, and in particular in public sector employment. The Moscow-based human rights organization Memorial has noted that "even in areas of compact settlement of Uzbeks...all Uzbek leaders have been replaced by Turkmen". The situation for Russians is little different.

As with ethnic and racial demography, accurate statistical data about the employment situation in Turkmenistan is difficult to come by. The state has a clear interest in understating the unemployment and inflation figures, and in overstating annual economic growth. Moreover, to the extent that resource extraction has kept growth rates high, much of this new wealth is diverted to the Foreign Exchange Reserve Fund, which is under President Niyazov's direct control. Although some of this resource wealth is distributed to the average citizen in the form of free gas and electricity, the bulk of it remains President Niyazov's private preserve, seen by the average citizen of Turkmenistan only in the form of the lavish building projects that have bestowed upon Ashgabat many statues of the President. Indeed, Turkmenistan's economy and public finances are so lacking in transparency that major international agencies, such the IMF or the EBRD, have either severely restricted their activities in the country or refused to operate there altogether. Nonetheless, some general observations about the employment situation are possible, and its impact on Turkmenistan's racial and ethnic minorities.

Employment opportunity is scarce for the majority of Turkmenistan's citizens, and has deteriorated since 1991. After over a decade of independence, the public sector remains the primary source of reliable, regular employment, and the private sector remains largely undeveloped (the government's claims in Para. 16 of its report to the CERD notwithstanding). However generous Turkmenistan may be in distributing free gas and electricity to its people, public services in general and the corresponding availability of public sector employment have declined markedly in recent years. School closures and layoffs of teachers have been widespread. Just this year, President Niyazov announced his intention to close all hospitals except one in Ashgabat, thereby requiring all citizens

to seek medical care in the capital, regardless of the impossibility of doing so for many in more remote regions of the country. In many areas of the public sector, professionals with relevant training have been replaced with un- or under-trained military conscripts. Thus, soldiers are now doing the jobs of nurses. In addition to its other deplorable consequences, this policy has seriously eroded the viability of public sector employment in Turkmenistan.

The employment situation for Turkmenistan's racial and ethnic minorities is even more acute. The underdevelopment of the private sector leaves them dependent for employment on a public sector which openly discriminates against anyone who cannot prove his or her Turkmen ancestry back three generations – the 'third generation' test seen in so many other realms of government policy, and articulated by President Niyazov himself in a public broadcast. The ranks of the public service are being systematically purged of all minority groups. Ethnic and racial minorities are thus forced into the informal economy or the black market, which leaves them not only more vulnerable economically (although it must be noted that even many state employees do not receive regular paychecks), but also subject to official harassment and corruption. Moreover, the continuing concentration of all public services in Ashgabat, and the corresponding further impoverishment of an already underprivileged countryside, has a disproportionate impact on minority populations such as Uzbeks or the few remaining Kazakhs who largely inhabit rural border regions of the country. They are denied both essential public services and the employment opportunities such services provide. It is therefore no overstatement to assert that the future of Turkmenistan's labor force, and of place within it of the country's racial and ethnic minorities, is gravely endangered by these harsh and destructive policies.

#### **Article V, Section (e) (v): The Right to Education and Training**

The government devotes four paragraphs of its report to the right to education, as detailed in Article V. While it offers apparently impressive statistics about the number of schools in the country (Para. 162), the range of subjects taught (Para. 163), and the levels of enrolment (Para. 164), it makes no mention whatsoever of the place of Turkmenistan's racial and ethnic minorities within these educational institutions. Moreover, it completely fails to address serious questions about the deteriorating quality of public education at levels in Turkmenistan.

The educational system in Turkmenistan has declined significantly since independence at both the primary and advanced levels, as a direct result of government policy targeting the educational sector. Signs of such decline include widespread layoffs of teachers, and irregular or non-existent payment of those still employed; reduction in the number of years of mandatory education; forced child labor in the cotton fields at the expense of schooling; the closure of the Academy of Sciences; severe restrictions on enrollment in the remaining institutions of higher education; and the substitution of virtually all other course materials at all levels of education with study of President Niyazov's spiritual guide for the people of Turkmenistan, the Ruhnama. No graduate degrees have been granted in Turkmenistan since 1998. While the government cites its law on library access (Para. 167), it fails to note the recent numerous library closures, particularly outside Ashgabat. Even within Ashgabat, educational opportunity continues to diminish: in July of 2005, a Presidential decree downgraded the one remaining theological faculty in Turkmenistan to a sub-faculty of the Department of History at Magtymguly State University in Ashgabat and forced the Turkish faculty there to return to Turkey. They will be replaced by Turkmen instructors, and enrollment will be limited to 55 students, in what one staff member called a "virtual catastrophe" for the school. This development is particularly revealing of government policy in relation to Turkmenistan's commitments under the CERD, since it affects religious freedom, access to education, and the right to work.

These actions and policies are having a highly adverse impact throughout Turkmenistan's society. They not only severely compromise an individual's ability to acquire useful and competitive skills; they are also creating a whole generation of citizens who will be ill-equipped for any skilled trades or professions, let alone further education or employment outside Turkmenistan. They are also



directly at odds with President Niyazov's own declarations that he is overseeing the creation of a 'Golden Age' for Turkmenistan.

While no one in Turkmenistan is immune from the effects of these policies, some aspects of them have had a particular impact on Turkmenistan's racial and ethnic minority populations. These include access to education in languages other than Turkmen; forced assimilation of minority populations in the classroom; and access to higher education, advanced degrees, and opportunities to study abroad. Once again, Turkmenistan's racial and ethnic minorities bear a special burden under current state policies.

Prior to independence, education was available in Turkmenistan in the Kazakh, Uzbek, Armenian and Russian languages. (Kazakh and Uzbek, along with Turkmen, are Turkic languages; Russian is Indo-European, and Armenian Caucasian). Since independence, all Kazakh, Uzbek and Armenian language schools have been closed, and course materials in these languages are no longer available. Although other Russian-language schools may exist in addition to the one official Russian-language school in Ashgabat, opportunities for Russian-language education have also clearly diminished in recent years. Heritage language education is thus effectively unavailable for most of Turkmenistan's ethnic and racial minority groups, and severely restricted for Russians. This restriction of Russian language education affects not only the comparatively large Russian minority in Turkmenistan, but also smaller minorities, such as Armenians, who have traditionally used Russian as their preferred language of communication outside their own communities. Turkmen has thus become the sole language taught many students in Turkmenistan. The consequences for Turkmenistan's ethnic and racial minorities are significant. They are denied instruction in the heritage languages they share with their friends and relatives outside Turkmenistan. In being denied easy access to Russian-language education, they are denied opportunities for further education, employment, or even travel abroad, since Turkmen is little spoken outside Turkmenistan itself. Once again, the result is further isolation not only of these minority populations, but of the people of Turkmenistan as a whole.

The situation in the classroom is no less troubling. As mentioned above, all other course materials are increasingly being eliminated in favor of exclusive curricular emphasis on the study and memorization of President Niyazov's Ruhnama, a rumination on the history and virtues of the Turkmen people. In a speech to the Makhtumguly III Congress of Youth Organizations in May of 2004, President Niyazov made clear the role the Ruhnama is to play in the education and the lives of citizens of Turkmenistan:

In order to understand the sacredness of the state, it is necessary to comprehend five values which make up the foundation of patriotic education...

The first of these is Ruhnama

Ruhnama is the Chief Book of the Turkmen people...

Ruhnama is the world of the Turkmen people gathered in one book...

Again and again, read Ruhnama, in childhood, as an adolescent and a youth, mature and old age, read and re-read it in old age because at each stage of life, ever greater and greater meaning of this Book is discovered.

Sacrificing exposure to diverse viewpoints in favor of a single, novel view of the world and of Turkmenistan's place in it does not benefit any students in Turkmenistan's educational system. Further, the ethno-nationalist tone of much of the Ruhnama delivers a particularly unwelcoming and exclusionary message to the minority student. Vaguely worded celebrations of the unity of the people of Turkmenistan do little to assuage the impression that there is no place for ethnic and racial minorities in Turkmenistan today. This failure to acknowledge, address or celebrate the contributions of racial and ethnic minorities to Turkmenistan's society is compounded by a policy of forcing all students to wear ethnic Turkmen dress to school. Thus, an Uzbek student, whose

dress would identify him or her as ethnically Uzbek, is denied a crucial form of cultural identity and expression. It is no wonder that many Uzbeks in Turkmenistan ‘voluntarily’ conceal their Uzbek identity – if they do not, the state will do so for them.

While ethnic and racial minority populations do enjoy access to basic primary education in Turkmenistan, such as it is, they are systematically denied access to higher education. Given the restrictions imposed on the free movement of ethnic and racial minorities in Turkmenistan, it is perhaps not surprising that they have no access to higher education abroad, assuming that their increasing lack of advanced Russian language skills would even qualify them for it in the first place. In fact, a Presidential decree of February 2003 prevented students in Turkmenistan from buying foreign currency, thus presumably “preventing foreign universities from becoming centres of Turkmen dissent”. This same decree invalidated all degrees earned abroad and announced the dismissal of all public sector employees who possessed such foreign qualifications.

Furthermore, ethnic and racial minorities are also now denied access to any institutions of higher education *within* Turkmenistan. The ‘third generation’ test for public employment implemented by President Niyazov is applied to applications for university admission as well. One Uzbek student who failed his university entrance exam reported that it had been marked ‘Uzbek’ and thus automatically deemed ineligible for admission. The closure of the Academy of Sciences has had a disproportionate effect on Turkmenistan’s educated Russian population, since many members of the Academy were ethnic Russians. The result of all these policies – surely intentional – is the elimination of ethnic and racial minorities from eligibility for any positions of state influence and authority, where they could advocate or represent the interests of their own peoples and possibly offer a corrective to the ethno-nationalist policies of the current regime.

Access to educational opportunity is a prerequisite for later eligibility for professional employment and access to much of the public sector, from school teachers to doctors and nurses to legal and military and political functionaries. Here too, as we have seen, Turkmenistan’s treatment of its racial and ethnic minority populations falls far short of both international norms and its own declared good intentions.

#### **Article VI: Establishment of the Legal and Institutional Framework to Protect Against and Counter Acts of Racial Discriminations**

Article VI of the Convention states:

*States parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.*

Turkmenistan addresses this article of the Convention in eight paragraphs of its report to the CERD (Para. 169-176). These paragraphs cite the relevant statutes of Turkmenistan’s legal code which nominally guarantee the existence of tribunals that provide legal protection and remedies. Although the government claims elsewhere in its report that “no racial crimes have been recorded in Turkmenistan in recent years” (Para. 101), racial discrimination has certainly taken place and been either ignored or, in fact, actually encouraged by the government. Moreover, the fact that a crime has not recently been recorded does not obviate the need for transparent, fair, and effective remedies to address claims that may be made.

#### **Article VII: Implementation of Cultural, Educational and Informational Measures to Combat Racial Prejudices**

Article VII of the CERD states:

*States parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups...*

Turkmenistan devotes three paragraphs of its report to the CERD to teaching and education (Para. 177-179); three paragraphs to culture (Para. 180-182); and one paragraph to information (Para. 183), at which point the report concludes. These paragraphs reassert Turkmenistan's professed commitment to international exchange and ethnic harmony, and highlight the role that such principles play in the educational system.

The preceding discussions have addressed Turkmenistan's actual record in the fields of teaching, education, culture and information. At this point, it is sufficient to repeat a number of themes of this alternative report to the CERD. The quality of public education in Turkmenistan is very poor, declining, and impacts minorities disproportionately. This includes higher education, where the closure of the Academy of Sciences has adversely affected Turkmenistan's educated Russian minority. Culture as represented in the mass media and state ideology emphasizes Turkmen ethnicity to the exclusion of all other constituent populations in Turkmenistan. The demolition of the Pushkin State Theater was a particular affront to Turkmenistan's Russian minority, but has adversely affected the cultural opportunities of all citizens. Controls on access to information are among the most severe in the world. Therefore, the government of Turkmenistan acts in ways which not only violate Article VII of the CERD, but actually serve to undermine its intent.

## **CONCLUSION**

There are few bright spots in Turkmenistan's human rights record. Its treatment of its racial and ethnic minority populations is one area of particular concern. Discriminatory and unequal treatment is seen at every level of Turkmenistan's public life. It extends from local police actions through the educational system and the labor force to reach the highest levels of state power, as embodied in President Niyazov's writings and statements, which regularly determine state policy. Uzbeks and Russians, because of their historical and numerical prominence among Turkmenistan's minority populations, are often particular targets of discriminatory action. But smaller minority groups are no less vulnerable to abuses because of their lower national profile.

This discriminatory and unequal treatment exists within a larger political culture which does not respect the rule of law and offers virtually no protections to its citizens against arbitrary actions by the state. Nor does it offer any effective avenues of redress, whether through the legal system or through political mobilization in civil society organizations or the electoral system. State media consistently celebrate Turkmen culture and heritage to the exclusion of all other traditions within the country, and President Niyazov's own writings, which dominate the educational system, espouse an explicitly pro-Turkmen ethno-nationalist ideology. Alternative voices are essentially unavailable to the average citizen of Turkmenistan, either from within or outside the country. As a result, little chance of change that would respect human rights of all persons in Turkmenistan exists from within the country.

This situation places a special burden on the international community. Turkmenistan has shown some, albeit limited, responsiveness to external criticism. Moreover, its submission of its present report to the CERD is a positive step in meeting the government's commitments under international law. Although, as this alternative report has shown, Turkmenistan's report to the CERD is riddled with omissions, inaccuracies, and blatant misrepresentations of the true situation within the country, it at least offers a starting-point for future engagement between the government and the international community. With that in mind, the reader is referred to the recommendations below.

## **RECOMMENDATIONS**

Following the review by the CERD, it is recommended that the following areas of specific concern to Turkmenistan's racial and ethnic minority populations be emphasized:

1. Stop the forced resettlement of peoples, particularly ethnic Uzbeks.
2. Eliminate the 'third-generation' test throughout Turkmenistan society, particularly in higher education and public sector employment, and eliminate the requirements for it currently present in the law and employment regulations for civil servants.
3. Re-open Uzbek, Kazakh, Armenian, Russian and other language schools, and extend the availability of Russian-language education.
4. Reverse the policy of centralization of public services such as medical care in Ashgabat, and make quality public services equally available throughout Turkmenistan.
5. Eliminate the requirement for religious groups to register with the government.
6. Stop the harassment of religious services and gatherings, both public and private.
7. Stop the harassment of citizens of Turkmenistan who have sought refuge or exile abroad.
8. Stop requiring students to wear Turkmen dress to school.
9. Allow and encourage political perspectives other than those celebrated in the Ruhnama to reach the public, both in school curricula and mass media.
10. Allow foreign-language print and broadcast media to operate and circulate freely, including Russian and Uzbek.
11. Allow foreign and domestic NGOs and human rights groups to register and to operate freely in Turkmenistan.
12. Meet reporting obligations to the CERD and other international bodies in a timely fashion.
13. Comply in practice with the obligations set forth in its own Constitution and under the Convention on the Elimination of Racial Discrimination and other human rights treaties.
14. Create an ombudsman's office independent of the executive branch of government to monitor compliance with Turkmenistan's treaty obligations.
15. Provide timely Russian-language translations of the CERD conclusions, comments, and summary records and press releases of the CERD session on the Russian-language websites of the UN, and also available for distribution through UN offices in Turkmenistan and throughout the region.