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Summary record of the 3344th meeting

Held at the Palais Wilson, Geneva, on Thursday, 9 March 2017, at 10 a.m.

Chair: Ms. Waterval (Rapporteur)

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Ms. Waterval (Rapporteur) took the Chair.

The meeting was called to order at 10 a.m.

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

*Second periodic report of Turkmenistan (continued) (CCPR/C/TKM/2;
CCPR/C/TKM/Q/2 and Add.1)*

1. *At the invitation of the Chair, the delegation of Turkmenistan took places at the Committee table.*
2. **The Chair** invited the delegation to resume replying to the questions posed by Committee members at the previous meeting.
3. **Ms. Atajanova** (Turkmenistan) said that in the area of human trafficking, the Government had established an inter-agency working group comprising representatives of State bodies and civil society organizations. The working group had developed draft standards for the appeals procedure and the identification of victims of human trafficking, with the aim of restoring victims' rights and providing redress. In 2016, the authorities had held 10 training sessions for law enforcement officials, judges and representatives of civil society and a regional seminar on a coordinated, victim-oriented approach to combating human trafficking. Law enforcement officers had travelled to Finland and Czechia to discuss best practices in preventing human trafficking. The International Organization for Migration had provided grants to civil society organizations for awareness-raising campaigns to prevent human trafficking and had assisted in setting up three telephone hotlines in the country. That Organization had also cooperated with the National Institute for Democracy and Human Rights in drafting guides for migrant workers and victims of human trafficking. In 2016, the authorities had investigated three cases of human trafficking, involving three suspects, under article 129 bis of the Criminal Code.
4. While there was no specific law in place to address violence against women, the Government had established a committee to examine the possibility of adopting stand-alone legislation on the issue or of incorporating it in the existing Criminal Code. One of the aims of the National Action Plan on Gender Equality in Turkmenistan was to analyse the prevalence and root causes of violence against women. The World Health Organization had provided assistance in adapting for Turkmenistan a survey used in a number of other countries; training sessions for interviewers would be held in April 2017.
5. **Mr. Iwasawa** said that he wished to learn whether foreign nationals had the right to move freely and choose their place of residence in the State party. Information received by the Committee suggested that the mandatory residence registration system prevented people from working and accessing health-care services outside the city where they were registered and that it was difficult for people to change their place of residence. It would be useful to hear about the sanctions imposed for failure to comply with the registration system. It was unclear how the travel restrictions placed on citizens in the interests of national security, which allegedly affected thousands of people including journalists and representatives of civil society organizations, were compatible with article 12 of the Covenant.
6. The Committee would welcome a response from the delegation regarding concerns that the retroactive ban on dual citizenship meant that individuals who had acquired Russian nationality prior to the imposition of the ban were not able to obtain biometric Turkmen passports. Referring to paragraphs 23 and 24 of the list of issues (CCPR/C/TKM/Q/2), the Committee would appreciate information in connection with restrictions on media outlets and access to the Internet in the State party, the implementation of the Organization and Conduct of Gatherings, Meetings, Demonstrations and Other Mass Events Act of 2015 and the forcible mass mobilization of persons for the purposes of participation in events organized by the authorities.
7. **Ms. Pazartzis** said that the presidential decree limiting access to employment in Ashgabat for persons residing outside the city was incompatible with international standards on the right to employment. The Committee would be grateful for statistics on the

number of refugees and asylum seekers registered in the State party and their nationality and origin, the number of pending applications for asylum, including for persons in detention, and the number of foreign nationals who had been expelled or returned to their country of origin or a third country. The Committee also wished to receive details of how many stateless persons were present in Turkmenistan and how many persons were waiting to be recognized as stateless, the length of the process to confirm statelessness and the status of the children of stateless persons.

8. It would be useful to have a full account of the implementation of the Voluntary Association Act 2014, including the conditions for the registration of associations, the grounds on which registration could be refused and whether recourse was available in the event of refusal. She would like to know how many associations working on human rights issues were registered and operating in the State party.

9. There were concerns regarding the grounds for the suspension or dissolution of political parties under the Political Parties Act and their compatibility with the Covenant. She would appreciate the delegation's comments on whether the ban on the participation in elections of persons deprived of their liberty amounted to a blanket denial of their voting rights, contrary to the provisions of articles 10 and 25 of the Covenant.

10. **Mr. Politi** said that he wished to hear from the delegation regarding reports that, despite the adoption of the Courts Act of 8 November 2014 establishing the legal framework to ensure the full independence and impartiality of judges, the judiciary remained subordinate to the executive branch. He wondered, in particular, whether the fact that they were appointed for renewable five-year periods affected their impartiality. He also wished to know who had the authority to promote and transfer judges and who was responsible for evaluating their work.

11. It would be helpful to have statistics regarding the number of corruption cases initiated against judges in the previous five years, the number of judges who had been charged with corruption and the number of judges who had been convicted and dismissed in connection with such cases. He would welcome information on any measures in place to establish the presumption of innocence and the right to appeal. He would also appreciate the delegation's comments regarding reports that Russian-speaking defendants had not been provided with interpretation, in contravention of the fundamental right of accused persons to be informed of the charges laid against them.

12. Further information on how the Act on Controlling the Spread of Disease caused by the Human Immunodeficiency Virus (HIV) was compatible with articles 17 and 26 of the Covenant would be welcome. He would like to know whether it was true that Turkmen consulates issued travellers with entry visas for Turkmenistan only on presentation of a medical certificate showing they were free of HIV and that foreign nationals found to be affected by HIV were deported. It would be useful to receive details of the number of foreign nationals, if any, who had been deported for that reason during the previous five years. The Committee would welcome clarification of the provisions of the Act in connection with compulsory testing for HIV, including prior to contracting marriage.

13. It would be interesting to have a full account of the circumstances under which persons with disabilities could be prevented from marrying. He would also appreciate the delegation's comments on the concerns expressed in the concluding observations of the Committee on the Rights of Persons with Disabilities (CRPD/C/TKM/CO/1) regarding the inadequate provision of assistance to persons with disabilities in connection with child-rearing and adoption, the restrictions on the right to vote for persons with disabilities and the lack of support provided for persons with disabilities to present themselves as candidates in national and local elections.

14. **Ms. Seibert-Fohr**, referring to paragraph 19 of the list of issues, said that she wished to know whether persons who had been forcibly evicted to make way for construction projects had received advance notice and had been given the opportunity to legally challenge the evictions prior to their being carried out. She would appreciate the delegation's comments on the issue of forced evictions in relation to article 17 of the Covenant.

15. **Mr. Ben Achour** said that he would like a response to his previous question regarding the case of Boris Shikhmuradov, specifically in relation to the Committee's finding, in relation to Communication No. 2069/2011, that Mr. Shikhmuradov had been forcibly disappeared and should be released immediately. Given the large number of individual communications received by the Committee with regard to the State party, he wished to learn whether the Government had put in place a specific mechanism to implement the Views and recommendations issued by the Committee.

16. In line with the Committee's jurisprudence, States parties were permitted to oblige conscientious objectors to undertake social service provided that the facilities they were assigned to were not under military control. However, the Committee had received reports that conscientious objectors in the State party had been made to perform their social service obligations in medical units of the Armed Forces; the delegation's comments on those reports would be appreciated.

17. Referring to paragraph 22 of the list of issues, he wished to hear from the delegation regarding reports of harassment of religious minorities, including the case of Mr. Bahram Hemdemov, a Jehovah's Witness who had been sentenced to 4 years' imprisonment in May 2015 for inciting religious discord. It would be interesting to learn whether the State was involved in the appointment of the Grand Mufti and imams. Lastly, the Committee would appreciate details on the role of ethnic and minority groups, civil society organizations and NGOs in the drafting of the State party's report.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

18. **Mr. Hudaynazarov** (Turkmenistan) said that restrictions on the movement of citizens were imposed only in the interests of national security and to ensure public order and health. The permitted grounds for restricting movement included the protection of border areas, military zones and environmentally sensitive locations, the threat of environmental disaster and the presence of infectious diseases or toxic substances. Government decisions to restrict freedom of movement or of place of residence could be appealed before the courts. The forcible removal of citizens from their place of residence could be undertaken only on the basis of a court decision. The lack of residence papers did not constitute an impediment to freedom of movement, including for the purposes of employment.

19. Citizens were prevented from leaving the country only on the grounds provided for by law. Those grounds included the possession of State secrets, being subject to an ongoing criminal investigation or civil suit or to a criminal sentence which had not been served, and concerns that the individual might become a victim of human trafficking. Under article 11 of the Constitution, foreign nationals and stateless persons had the same rights and duties as citizens, including with regard to freedom of movement.

20. The Organization and Conduct of Gatherings, Meetings, Demonstrations and Other Mass Events Act of 2015 provided for the upholding of public order during mass events. Citizens, political parties and religious organizations were permitted to organize such events provided they complied with the requirements set out in the Act and in the Constitution. Mass events could be held in any appropriate location unless they posed a threat to the security of the nation. Restrictions were in place for certain locations, including airports, railway stations and gas pipeline facilities. The public authorities had a responsibility to ensure the safety of participants and were empowered to halt or cancel gatherings if they got out of control. Special procedures were in place to allow citizens to contest decisions taken regarding the holding of mass events.

21. **Mr. Hallyyev** (Turkmenistan) said that the independence of the judiciary was enshrined in article 98 of the Constitution. The Organization for Security and Cooperation in Europe (OSCE) Centre in Ashgabat had provided support for a seminar on international standards and best practices in the independence of the judiciary, which had been attended by representatives of the legislative branch, law enforcement agencies, State bodies and the Union of Industrialists and Entrepreneurs of Turkmenistan.

22. Freedom of religion and worship was guaranteed under the new Constitution. A law enacted in March 2016 regulated religious rights, including the right to form religious

associations. In line with article 18 of the Covenant, religious freedom could be limited only to protect the constitutional order or national security, public morals or the health and rights of citizens. With regard to freedom of association and the right to participate in public life, the Constitution guaranteed the right to form political parties and other public associations. An amended version of the Voluntary Association Act, adopted in May 2014, provided that both physical and legal persons could form part of such associations. Currently, there were 118 registered public associations, including 48 sports associations, 16 scientific and creative organizations and 3 international associations. There were 131 religious organizations currently registered: 107 Islamic organizations, 102 of which were of the Sunni tradition and the other 5 of the Shia tradition; 13 Orthodox Christian organizations; and 11 organizations representing other faiths.

23. **Ms. Atajanova** (Turkmenistan) said that the Social Protection Code, as amended in 2012, stipulated that persons with disabilities enjoyed all the social, economic, political and private rights and freedoms enshrined in domestic law. Any discrimination against persons with disabilities was prohibited and violators were prosecuted. The Family Code contained no provisions that would prevent a person with a disability from marrying or forming a family, unless the person had been found legally incompetent as a result of a mental disorder or psychological disability.

24. As to the electoral rights of persons with disabilities, article 3 of the Electoral Code provided that all citizens who had reached the age of 18 years had the right to vote in all elections and referendums and to be elected. There were no direct or indirect restrictions on those rights. Only prisoners, who were considered legally incompetent, were prevented from voting or standing for election. In the most recent presidential election, ballots had been made available in Braille. That was one of the steps taken in order to implement the recommendations made by the Committee on the Rights of Persons with Disabilities in its concluding observations on the initial report of Turkmenistan. In addition, domestic legislation was being reviewed in order to bring it into line with the Convention on the Rights of Persons with Disabilities, and steps were being taken to improve the accessibility of public buildings and other infrastructure.

25. **Mr. Hudaynazarov** (Turkmenistan), affirming that persons with disabilities were able to participate fully in political life, said that a person with a disability had been elected to office during the recent parliamentary elections in 2014.

26. **Mr. Haljanov** (Turkmenistan), referring to paragraph 15 of the list of issues, said that Turkmenistan had come to an agreement with the Russian Federation on dual citizenship and in June 2013 had begun issuing new biometric passports to citizens of Turkmenistan holding Russian passports. It was thus complying with its obligations under domestic law and international agreements. The detailed information provided on asylum seekers in his opening statement addressed the additional questions raised by the Committee on the issue.

27. **Mr. Hudaynazarov** (Turkmenistan) said that the Government was working hard to prevent statelessness, including by extending Turkmen citizenship to stateless persons. The Citizenship Act established that children of Turkmen citizens received Turkmen nationality, regardless of where they were born. Children of stateless persons acquired Turkmen citizenship if the other parent was a Turkmen citizen, regardless of where the child was born. A child born in Turkmenistan to two stateless parents would automatically become a citizen. If a child was born outside Turkmenistan to a foreign national and a Turkmen citizen residing permanently abroad, the child would be granted Turkmen citizenship at the request of both parents. If no such request was made and the child became stateless, he or she would be given Turkmen citizenship.

28. **Ms. Atajanova** (Turkmenistan) said that the National Action Plan on Human Rights 2016-2020, which incorporated the recommendations of various human rights bodies, envisaged several measures aimed at promoting the further development of civil society, including the establishment of favourable conditions for the registration and development of public associations. In addition, existing legislation on public associations would be reviewed and enhanced. The national human rights institution and NGOs would be involved in those activities. A three-day seminar held in December 2016, with support from

the United Nations Development Programme, had focused on partnership between public associations and government bodies in working towards the Sustainable Development Goals. In February 2017 training sessions on the development of civil society organizations had been offered.

29. **Mr. Haljanov** (Turkmenistan) said that the questions posed in paragraph 19 of the list of issues did not reflect reality. The Government was carrying out major infrastructure construction and development programmes in Ashgabat and surrounding areas in response to tremendous growth in the city's population over the previous 10 years. Work was under way on a number of housing projects. The buildings in Shoganly had been demolished because they were old and in a state of disrepair. The former inhabitants of those buildings would be reaccommodated in new apartments with at least the same number of rooms as their previous dwellings.

30. The Government had taken a number of measures to develop the mass media and expand news coverage and to develop modern information and communications technologies and increase Internet access. The Internet Development and Internet Service Legal Regulations Act, adopted in December 2014, established the legal basis for the development of the Internet and the provision of Internet services in Turkmenistan.

31. The Government attached great importance to improving effective cooperation with foreign media. New regulations on the accreditation of foreign journalists and media had been adopted in April 2016; accreditation had since been granted to 25 journalists and to several major foreign news organizations, including the Associated Press, Agence France-Presse, Reuters and Xinhua. Accreditation had to be renewed each year. The number of foreign journalists was expected to increase, as other news organizations, including Interfax, planned to open offices in Turkmenistan. The Ministry of Foreign Affairs provided all possible assistance to accredited foreign correspondents, who were invited to cover almost all events of national importance. Accredited journalists were also invited to regular news briefings and could access press releases via e-mail and the Ministry's website. Foreign journalists were free to travel throughout the country in order to prepare objective news reports, provided they informed the Ministry in writing of their plans.

32. **Mr. Hudaynazarov** (Turkmenistan) said that the new Constitution recognized political plurality and a multiparty system. The Political Parties Act, adopted in January 2012, upheld citizens' constitutional right to form and join political parties and guaranteed parties' freedom to carry out their activities, provided they did not infringe the rights of other citizens or disturb the public order. There were currently three active political parties: the Democratic Party, the Industrialists and Entrepreneurs Party and the Agrarian Party, all of which participated actively in the public life of the country.

33. The Constitution stipulated that Turkmenistan was a secular State. Accordingly, the government could not interfere in religious affairs, nor could religious groups interfere in government affairs. Political parties could not be established along religious lines, and religion could not be used as a tool for achieving political objectives. Membership of political parties must be open to all citizens, irrespective of religion or other considerations. The recommendations of treaty bodies were taken very seriously, and domestic legislation was regularly reviewed and amended to ensure that it complied with international requirements. However, the Government remained of the view that the recommendation to allow the formation of political parties on the basis of religious criteria required more careful analysis, as religion should not be used as a means of gaining political power or winning elections.

34. With regard to the presumption of innocence, article 34 of the new Constitution stipulated that an individual must be considered innocent until his or her guilt had been established by a court. Individuals suspected of having committed an offence could not be required to prove their innocence, and they must be given the benefit of the doubt if there was any uncertainty as to their guilt.

35. **Mr. Haljanov** (Turkmenistan), referring to the case of Saparmamed Nepeskuliev, said that Mr. Nepeskuliev was serving his sentence at a police correctional facility in the Balkan region, where he had lived most of his life. He had been allowed to receive visits and food parcels from his sister on several occasions in 2016. Leonid Komarovskiy, a

citizen of the United States of America, had been arrested in Ashgabat in November 2002 and, together with several other individuals, had been accused of attempted assassination of the President of Turkmenistan. He had not been subjected to any torture or other inhumane treatment while in custody, nor had he ever lodged a complaint of torture or any other unlawful method of interrogation. While in custody, he had met repeatedly in private with the Vice-Consul of the United States, and on 24 April 2003 he had been released at the request of the Government of the United States. All his belongings and documents had been returned and he had left the country.

36. **Mr. Hudaynazarov** (Turkmenistan) said that, under article 9 of the new Constitution, recognized norms of international law had priority over domestic law. International standards were applied by domestic courts, although in some cases the courts could not apply a standard until it had been transposed into domestic law. For instance, in order to apply the Convention against Torture, which did not specify any punishment for the offence of torture, it had been necessary to adopt a law not only establishing torture as a separate offence but also setting out the punishment for the offence.

37. **Ms. Atajanova** (Turkmenistan) said that reports to United Nations human rights bodies were prepared by an inter-agency commission established by the President in 2007. The commission had formed a working group comprising experts representing various ministries and agencies and also relevant civil society organizations. Public associations had also been involved in formulating the National Plan of Action on Human Rights and the National Action Plan for Gender Equality.

38. **Ms. Seibert-Fohr** said that she understood that the Criminal Code had recently been amended to include specific articles on extremism. If that was in fact the case, details on the amendments, including the definition of the crime of extremism and any provisions relating to foreign fighters, would be welcome. She would also appreciate information on the demolition of mosques and churches in Ashgabat in recent years. Was it true, for example, that the authorities had bulldozed one of the city's mosques in April 2016 on the grounds that it had been built without permission more than 20 years earlier? Were the authorities in fact encouraging people to go to the mosque in central Ashgabat instead? She would also appreciate the delegation's comments on reports that men in Ashgabat and other cities had been forced to shave off their beards, and those who had refused had been beaten.

39. **Mr. Iwasawa** said that the delegation's explanation of the Migration Act had left him with the impression that the restrictions on foreign travel by Turkmen citizens were very broad. Turkmen students studying abroad were reportedly finding it increasingly difficult to travel abroad and, pursuant to new requirements imposed during the reporting period, were being required to submit numerous documents at the border. The Committee had been informed that the Government applied an unofficial curfew, barring anyone from being outdoors after 10 p.m. Violators were allegedly taken into custody and held at a police station until a relative came to identify them. Such restrictions appeared to be inconsistent with article 12 of the Covenant. He wished to know what sanctions were imposed on individuals who failed to comply with the mandatory residence registration requirement (*propiska*). If arrest was an option, for how long could a person be detained? With regard to freedom of expression, the Committee would like to hear the delegation's response to reports indicating that journalists and civil society activists who challenged official policies of Turkmenistan were detained or harassed.

40. **Mr. Politi** said that he would like a detailed response to his earlier question about the judiciary, including on the authority of the President to appoint and dismiss judges.

41. **Ms. Kran** asked whether instruction on the rights enshrined in the Covenant was provided in primary and secondary school. If not, were there plans to offer such instruction with a view to raising awareness among children about their civil and political rights?

42. **Mr. Hudaynazarov** (Turkmenistan) said that the legislation on extremism covered a broad range of acts, including attempts by physical or legal persons or associations to bring about a forcible change in the constitutional order or the territorial integrity of the country through the overtaking of power or the formation of illegal military-type groups, participation in and support for terrorist activities, incitement to hatred, incitement to violence and mass disturbances, use of firearms or explosives, armed resistance to law

enforcement officials, activities aimed at undermining the electoral process, and activities aimed at curtailing the rights and freedoms of individuals on the basis of gender, national origin, language, religion or political views. Openly expressing extremist views, distributing extremist materials and participating in the preparation of extremist acts, including through the provision of training or other support, also constituted extremism. Persons who committed such acts were usually held criminally responsible, but could also be subject to administrative sanctions.

43. **Mr. Haljanov** (Turkmenistan) said that no men had been forced to shave off their beards. The Government would never permit such acts to occur. With regard to requirements relating to medical certificates, he had never been obliged to undergo a medical examination in order to prove that he was not infected with HIV.

44. His Government remained committed to upholding the international human rights obligations of Turkmenistan, including through regular reporting on the measures taken to give effect to the country's obligations under the Covenant. The Government viewed the dialogues with the Committee and with other United Nations human rights bodies as an opportunity to push all nations, including Turkmenistan, to do better.

45. **The Chair** said that the delegation was requested to submit any outstanding replies in writing within 48 hours. The Committee had welcomed the numerous positive developments reported by the State party; it continued to have some concerns, however, which would be reflected in its concluding observations.

The meeting rose at 1 p.m.