

**Submission from the Internal Displacement Monitoring Centre (IDMC)
of the Norwegian Refugee Council (NRC) for consideration at the
47th session of the Committee on Economic, Social and Cultural Rights
(14 November – 2 December 2011)**

Turkmenistan

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Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) was established in 1998 by the Norwegian Refugee Council (NRC) and monitors conflict-induced internal displacement worldwide. The Geneva-based Centre runs an online database providing comprehensive and regularly updated information and analysis on internal displacement in more than 50 countries. Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations. The online database can be accessed at www.internal-displacement.org

I. Internal displacement in Turkmenistan

1. This submission focuses on the situation of people in Turkmenistan who have been forcibly relocated and forcibly evicted. Information on the extent of these forced movements in Turkmenistan remains extremely scarce and national estimates of those forcibly relocated or evicted do not exist.
2. There appears to be no clear answer in international law as to when evicted persons may also be considered internally displaced people. Experts on the issue have neither fully qualified nor fully excluded evicted persons as internally displaced persons. Rather, they have used a case-by-case approach to make the qualification or exclusion.
3. For the purposes of this submission, evicted persons qualify as internally displaced people when the eviction has been forced, the eviction results in a significant disruption to their life and the consequences of the eviction have not been addressed.

II. Main issues of concern

Article 11: The right to an adequate standard of living – forced relocation

4. The Organisation for Security and Cooperation in Europe (OSCE) reported that in 2001, forced resettlement was incorporated as a punishment in the Criminal Code of Turkmenistan. In addition, on 19 November 2002 President Niyazov issued a decree titled “On Measures to Resettle and Rationally Allocate Manpower and Make Effective Use of Land in Dasoguz, Lebap, and Ahal Regions”. The OSCE explains the aim of this decree was to promote agricultural development, but also to rehabilitate “immoral” people through work.
5. In practice, these legal measures have been used as legal justification for forcibly relocating real or perceived political opponents, human rights activists, ethnic minorities (such as Uzbeks) and their family members to inhospitable parts of Turkmenistan. Though the government has pursued a policy of forcibly relocating individuals since at least 1999. Political dissidents in Ashgabat and people not belonging to the titular nation continue to be particularly targeted.

Illegitimate substantive basis

6. Forced relocations are prohibited in international law. The government has not refrained from forced relocations and has not used all appropriate means to protect people from forced relocations. This violates the rights of those relocated under Article 11, which, according to General Comment 7 of 1997 includes the freedom from forced relocations.

7. Furthermore, relocations are used as a type of arbitrary detention or internal exile. Relocations were carried out for the purpose of punishing political critics and excluding ethnic minorities from participating in the life of the country. Therefore these relocations are also a violation of Article 2.2 of the Covenant on non-discrimination.

Procedural protection and due process

8. The government did not ensure that all feasible alternatives were explored in consultation with the affected persons prior to the relocations. The government also did not seek the consent of the affected persons, provide them with sufficient notice to review the decision, give them access to an effective remedy or just and fair compensation. Decisions were not rendered sufficiently in advance and did not contain detailed justification for the relocation.

Worsened standard of living

9. The result is that all of those who were forcibly relocated have lost access to their homes, property, livelihoods, and social networks. They are also deprived of family unity, freedom of movement and choice of residence. Their lives have been significantly disrupted as a result of the relocation and no measures have been taken to address their needs that arose as a result of their relocation. They qualify as internally displaced people based on the definition given in para 3.
10. In its List of Issues (E/C.12/TKM/Q/1) dated 9 December 2010 to be taken up in connection with the consideration of the report of Turkmenistan, the Committee on Economic, Social and Cultural Rights requested:
 23. Please indicate what measures are taken to provide alternative accommodation and compensation to ethnic minorities victims of forced displacement.
11. In its Written Reply to the List of Issues (E/C.12/TKM/Q/1/Add.1) submitted on 21 July 2011, the Government of Turkmenistan did not provide any information in response to this request.

Article 11: The right to an adequate standard of living – forced evictions

12. Since about 1996, the government of Turkmenistan has been conducting a massive urban renewal project to rebuild the capital city, Ashgabat, and other locations in the country. The project is officially known as "The National Programme of Beautification of Social Conditions for Population until 2020." A key element of the project has been the demolition of houses in Ashgabat and other towns in Turkmenistan to make way for roads, parks, mosques, water fountains and multi-storey buildings.

13. These demolitions have been carried out by means of forced evictions, permanently removing thousands of residents from their homes against their will and mostly without the provision of or access to effective legal or other protection. Forced evictions for the purposes of demolition for the national programme have been reported in Karakumgydrostroi (30 kilometres from Ashgabat), Kunjaurgench (Dashoguz velayat), Pristan Farab (Lebap velayat), Keshi (Akhal velayat), Garadamak (Akhal velayat) and central farmstead of former Leningrad kolkhoz (Akhal velayat). Homes in Nakhalstroy (area of Ashgabat) were to be demolished in 2011.

Illegitimate substantive basis

14. Forced evictions are prohibited in international law. The government has not refrained from forced evictions and has not used all appropriate means to promote the right to adequate housing. This violates the rights of those evicted under Article 11, which, according to General Comment 7 of 1997 includes the freedom from forced evictions.

Feasible alternatives not explored

15. The government did not ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons.

Lack of consultation

16. There was no opportunity for genuine consultation with those affected by the evictions and their informed consent was never sought or given. Communities to be affected were not consulted in advance and the government did not demonstrate to them that the eviction was unavoidable and that no alternatives existed.

Notice

17. Residents received inadequate and unreasonable notice of the demolition of their homes and related evictions. Some residents were provided with 12-hour warnings whereas others were given two weeks to vacate the premises. In all cases, time was not given to those affected to review the demolition and eviction plans or decisions and to challenge them before an independent body. Evictions were scheduled without preparations having been made for the resettlement process, and before suggested relocation sites were fully habitable.

Lack of access to remedies

18. Evictions were carried out regardless of whether those affected had access to an effective remedy, and no attempts were made to facilitate their access to complaints mechanisms, legal remedies or legal aid to seek redress from the courts. Legal remedies or procedures have not always been provided to those who are affected by eviction orders.

19. Turkmen human rights activists acting outside of Turkmenistan have received letters from some evictees who said their attempts to appeal to courts have been futile. There has reportedly never been a domestic court case in which evictees have succeeded in laying claim to their home.

Lack of access to just and fair compensation

20. Under Turkmen law property can be acquired compulsorily by the state, but owners are entitled to compensation. The law requires that any disagreement over compensation must be resolved in court before the eviction and demolition takes place. Residents say that in practice they are forcibly evicted before applying for or receiving compensation.
21. A small number of outspoken evictees who insisted on compensation were offered alternatives. Some were offered land beyond the limits of the city without access to utilities, transport, telephone service, schools or livelihood opportunities. Others were offered apartments, but they reported they were much smaller than the accommodation they lost and their land plots were not compensated at all. The applications of others were rejected on the grounds their property documents are not in order.
22. Most evictees, however, have not received compensation or an offer of relocation and have stayed silent for fear of being victimized. In some cases local authorities harassed and intimidated evictees who challenged their compensation packages.

Worsened standard of living

23. Evictees have not only lost their homes, but their access to livelihoods, education, health care and social networks have been disrupted. Even in cases where evictees accepted the alternative on offer, their standard of living has worsened as a result of their eviction, the demolition of their home and the government's lack of adherence to prescribed and international standards on forced evictions. They qualify as internally displaced people based on the definition given in para 3.
24. In its List of Issues (E/C.12/TKM/Q/1) dated 9 December 2010 to be taken up in connection with the consideration of the report of Turkmenistan, the Committee on Economic, Social and Cultural Rights requested:
 24. Please comment on reports of forced eviction of property owners, without adequate compensation, in the context of a beautification campaign in Ashgabat.
25. In its Written Reply to the List of Issues (E/C.12/TKM/Q/1/Add.1) submitted on 21 July 2011, the Government of Turkmenistan did not provide any information on this.

26. In its report on implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TKM/1) submitted on 20 October 2010, paragraphs 202 to 213 discuss measures taken by the government to ensure adequate housing for its citizens. However, information on the Ashgabat beautification campaign and related demolitions and evictions was not included.

III. Recommendations

At the 47th session of the Committee on Economic, Social and Cultural Rights, IDMC invites the Committee on Economic, Social and Cultural Rights to consider the following recommendations to the Government of Turkmenistan:

Article 11: Adequate standard of living – forced relocation

- Refrain from the forced relocation of all peoples, including political opponents and ethnic minorities, and re-examine the policy in this regard;
- Assess the needs of the forcibly relocated and use all appropriate means to ensure all their needs resulting from the relocation are addressed and they can enjoy their rights on a par with their non-relocated neighbours, including freedom of movement and choice of residence.

Article 11: Adequate standard of living – forced eviction

- Refrain from the forced eviction of residents whose homes will be demolished as part of "The National Programme of Beautification of Social Conditions for Population until 2020," and re-examine the policy in this regard;
- Assess the needs of the forcibly evicted and use all appropriate means to ensure that all needs resulting from the eviction are addressed and that evictees can enjoy their rights on a par with their non-evicted neighbours;
- Provide timely, just and fair compensation and access to legal assistance to all persons, including owners and tenants, who have already been forcibly evicted and whose property has been targeted for demolition.