

## HUMAN RIGHTS WATCH

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: 212-290-4700  
Fax: 212-736-1300  
Email: hrwnyc@hrw.org

Kenneth Roth, *Executive Director*  
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*  
Carroll Bogert, *Deputy Executive Director, External Relations*  
Jan Egeland, *Deputy Executive Director, Europe*  
Iain Levine, *Deputy Executive Director, Program*  
Chuck Lustig, *Deputy Executive Director, Operations*

Walid Ayoub, *Information Technology Director*  
Emma Daly, *Communications Director*  
Barbara Guglielmo, *Finance and Administration Director*  
Peggy Hicks, *Global Advocacy Director*  
Babatunde Olujobi, *Deputy Program Director*  
Dinah PoKempner, *General Counsel*  
Tom Porteous, *Deputy Program Director*  
James Ross, *Legal and Policy Director*  
Joe Saunders, *Deputy Program Director*  
Frances Sinha, *Human Resources Director*

### PROGRAM DIRECTORS

Brad Adams, *Asia*  
Joseph Amon, *Health and Human Rights*  
Daniel Bekele, *Africa*  
John Biaggi, *International Film Festival*  
Peter Bouckaert, *Emergencies*  
Richard Dicker, *International Justice*  
Bill Frelick, *Refugee Policy*  
Arvind Ganesan, *Business and Human Rights*  
Liesl Gernholtz, *Women's Rights*  
Steve Goose, *Arms*  
Alison Parker, *United States*  
Graeme Reid, *Lesbian, Gay, Bisexual and Transgender Rights*  
José Miguel Vivanco, *Americas*  
Lois Whitman, *Children's Rights*  
Sarah Leah Whitson, *Middle East and North Africa*  
Hugh Williamson, *Europe and Central Asia*

### ADVOCACY DIRECTORS

Philippe Bolopion, *United Nations*  
Kanae Doi, *Japan*  
Jean-Marie Fardeau, *France*  
Meenakshi Ganguly, *South Asia*  
Lotte Leicht, *European Union*  
Tom Malinowski, *Washington DC*  
David Mepham, *United Kingdom*  
Wenzel Michalski, *Germany*  
Juliette de Rivero, *Geneva*

### BOARD OF DIRECTORS

James F. Hoge, Jr., *Chair*  
Susan Manilow, *Vice-Chair*  
Joel Motley, *Vice-Chair*  
Sid Sheinberg, *Vice-Chair*  
John J. Studzinski, *Vice-Chair*  
Hassan Elmasry, *Treasurer*  
Bruce Rabb, *Secretary*  
Karen Ackman  
Jorge Castañeda  
Tony Elliott  
Michael G. Fisch  
Michael E. Gellert  
Hina Jilani  
Betsy Karel  
Wendy Keys  
Robert Kissane  
Oki Matsumoto  
Barry Meyer  
Pat Mitchell  
Aoife O'Brien  
Joan R. Platt  
Amy Rao  
Neil Rimer  
Victoria Riskin  
Amy L. Robbins  
Shelley Rubin  
Kevin P. Ryan  
Jean-Louis Servan-Schreiber  
Javier Solana  
Siri Stolt-Nielsen  
Darian W. Swig  
John R. Taylor  
Marie Warburg  
Catherine Zennström

Robert L. Bernstein, *Founding Chair, (1979-1997)*  
Jonathan F. Fanton, *Chair (1998-2003)*  
Jane Olson, *Chair (2004-2010)*

AMSTERDAM • BEIRUT • BERLIN • BRUSSELS • CHICAGO • GENEVA • JOHANNESBURG • LONDON • LOS ANGELES • MOSCOW • NEW YORK • PARIS • SAN FRANCISCO • TOKYO • TORONTO • WASHINGTON

HUMAN  
RIGHTS  
WATCH

www.hrw.org

October 27, 2011

Members of the Committee on Economic, Social  
and Cultural Rights  
UNOG-OHCHR  
CH 1211 Geneva 10  
Switzerland

Re: CESCR Review of Turkmenistan

Dear Committee Members,

We write in advance of the Committee on Economic, Social and Cultural Rights' ("the Committee") upcoming review of Turkmenistan, to highlight concern about human rights abuses in the context of ongoing expropriation and demolition of homes in Ashgabat and the surrounding Akhal region.

Enclosed for the Committee's information is a letter Human Rights Watch addressed to the Turkmen government earlier this week, detailing information from evictees and others familiar with the expropriations and demolitions. The letter documents the ways in which the expropriation and demolition of private properties undertaken by the Turkmen authorities are unlawful and violate both domestic law and the government's international human rights obligations, including under the Covenant on Economic, Social and Cultural Rights ("the Covenant").

As described in the enclosed letter, the Turkmen government has undertaken evictions and demolitions in Ashgabat in the absence of court decisions and without provision of comparable accommodation or fair financial compensation. Existing procedures for notifying residents of expropriation and informing them about their rights and means of appeal are inadequate. Property owners who challenge officials regarding evictions and demolitions have been subjected to threats and intimidation by government authorities.

Human Rights Watch calls on the Turkmen authorities to immediately stop all expropriations and demolitions until they can be carried out in a manner consistent with Turkmen national law and Turkmenistan's international commitments. We further call on the

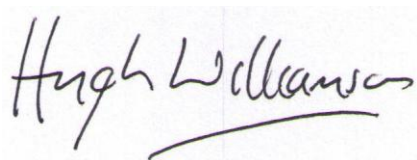
government to create a mechanism for investigating past cases of unlawful expropriation and demolition and providing adequate compensation to victims.

We hope the enclosed material will help inform the Committee's assessment and contribute to its recommendations to the Turkmen government.


We also feel it important to draw the Committee's attention to the extraordinary levels of repression that continue to characterize the Turkmen government's human rights record. Widely recognized as one of the most repressive governments in the world, it systematically clamps down on the rights to freedom of expression, association, assembly, movement, and religion. Independent civil society activists and journalists cannot work freely in the country, and there is a complete void in media freedoms. The government threatens, harasses, and arrests those who openly investigate abuses or question its policies, however modestly. All print and electronic media are controlled by the state. Many websites remain blocked, and internet cafes require visitors to present their passports. As the Committee may be aware, the government has persistently denied access to the country for independent human rights monitors, including no fewer than nine UN special procedures, the International Committee of the Red Cross, and non-governmental organizations. The resulting human rights monitoring vacuum makes Turkmenistan stand out even among its neighbors, despite the overall dire conditions reigning throughout the region. It also makes the Committee's upcoming review all the more significant as a rare opportunity for in-depth, public scrutiny of a government that goes to such great lengths to prevent its abusive policies from being exposed.

We thank you for your consideration and wish you a productive session.

Sincerely,



Hugh Williamson  
Executive Director  
Europe and Central Asia Division  
Human Rights Watch



Philippe Dam  
Acting Geneva Director  
Human Rights Watch

Enclosed: Human Rights Watch Letter to President Berdymukhamedov

## HUMAN RIGHTS WATCH

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: 212-290-4700  
Fax: 212-736-1300  
Fax: 917-591-3452

### EUROPE AND CENTRAL ASIA DIVISION

Hugh Williamson, *Director*  
Rachel Denber, *Deputy Director*  
Benjamin Ward, *Deputy Director*  
Veronika L. Szente Goldston, *Advocacy Director*  
Anna Sevortian, *Director, Moscow Office*  
Tanya Lokshina, *Deputy Director, Moscow Office*  
Jane Buchanan, *Senior Researcher*  
Giorgi Gogia, *Senior Researcher*  
Judith Sunderland, *Senior Researcher*  
Andrea Berg, *Researcher*  
Doutje Lettinga, *Researcher*  
Amanda McRae, *Researcher*  
Mihra Rittmann, *Researcher*  
Emma Sinclair-Webb, *Researcher*  
Steve Swerdlow, *Researcher*  
Eva Cosse, *Research Assistant*  
Yulia Gorbunova, *Research Assistant*  
Viktoriya Kim, *Coordinator*  
Erica Lally, *Associate*  
Marina Pravic, *Associate*

### ADVISORY COMMITTEE

Catherine Zennström, *Chair*  
Jean Paul Marthoz, *Co-chair*  
Henri Barkey  
Gerhart Baum  
Rudolf Bändig  
Stephen Del Rosso  
Felice Gaer  
Michael Gellert  
William Gerrity  
Miklós Haraszti  
Alice H. Henkin  
Jeri Laber  
Walter Link  
Masha Lipman  
Helena Luczywo  
Jane Olson  
László Jakab Orsós  
Arjan Overwater  
Can Paker  
Colette Shulman  
Leon Sigal  
Malcolm Smith  
George Soros  
Mark von Hagen  
Joanna Weschler

### HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*  
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*  
Carroll Bogert, *Deputy Executive Director, External Relations*  
Jan Egeland, *Deputy Executive Director, Europe*  
Iain Levine, *Deputy Executive Director, Program*  
Chuck Lustig, *Deputy Executive Director, Operations*

Walid Ayoub, *Information Technology Director*  
Emma Daly, *Communications Director*  
Barbara Guglielmo, *Finance and Administration Director*  
Peggy Hicks, *Global Advocacy Director*  
Babatunde Olugboji, *Deputy Program Director*  
Dinah Pokempner, *General Counsel*  
Tom Porteous, *Deputy Program Director*  
James Ross, *Legal & Policy Director*  
Joe Saunders, *Deputy Program Director*  
Frances Sinha, *Human Resources Director*  
James F. Hoge, Jr., *Chair*

HUMAN  
RIGHTS  
WATCH

[www.hrw.org](http://www.hrw.org)

## Open letter

October 25, 2011

President Gurbanguly Berdymukhamedov  
Presidential Palace  
Ashgabat, Turkmenistan 744000  
*Via facsimile: +993 (12) 35 51 12*

President Gurbanguly Berdymukhamedov,

Please accept my greetings on behalf of Human Rights Watch. I am writing to you because we are concerned about reports of human rights abuses in the course of ongoing expropriation and demolition of homes in Ashgabat and the surrounding Akhal region carried out by the Khakimlik (mayor's office) authorities as part of a nationwide urban renewal project. Based on information we have received from evictees and others familiar with the expropriations and demolitions, Human Rights Watch believes that the expropriation and demolition of private properties in these areas are unlawful and violate Turkmenistan's domestic law and international human rights obligations.

Evictions and expropriation are not prohibited under Turkmen and international law. However authorities are supposed to resort to evictions in exceptional circumstances only, for purposes that are clearly in the public interest and with appropriate due process, including compensation and alternative housing options. The legal basis for expropriation and house evictions are stipulated in the 2008 Constitution of Turkmenistan, the 1983 Housing Code, and the 1993 Law on Property. Article 9 of the Constitution stipulates that property in Turkmenistan is inviolable. Article 136 of the Housing Code states that houses of private owners cannot be expropriated, and an owner cannot be deprived of his property, except for the cases established by the law. In this regard the law, both the Housing Code and the Law on Property, establishes that lawful expropriation of property requires court approval, that adequate alternative accommodation be made available, and that the homeowner has the opportunity to seek legal redress before any actual demolition of a property takes place.

However, the government has undertaken evictions and demolitions in Ashgabat in the absence of court decisions and without provision

of comparable accommodation or fair financial compensation. We also believe that existing procedures for notifying residents of expropriation and informing them about their rights and means of appeal remain insufficient. Property owners who protest against evictions and demolitions have also been subject to threats and intimidation by government authorities.

Expropriation, evictions, and house demolitions have taken place in Ashgabat for more than a decade and on such a scale that clearly violate the government's obligation to protect the right to private property and the right to adequate housing. We respectfully urge you to keep your pre-election promise that no one will be evicted before being provided with alternative accommodation. We call on you to immediately stop all expropriations and demolitions until they can be carried out in a manner consistent with Turkmen national law and Turkmenistan's international commitments. We also call on you to create a mechanism for investigating past cases of unlawful expropriation and demolition and providing adequate compensation to victims.

### **Illegal Expropriations and Demolitions under Turkmenistan's Urban Renewal Project: Overview of Affected Neighborhoods**

We are aware that the government of Turkmenistan has been conducting an urban renewal project officially known as "The National Program of Improvement of Social Conditions for the Population of Villages, Settlements, Towns, Districts, and Rural Centers through 2020" throughout Turkmenistan for over a decade. The project was initiated by former President Saparmurat Niyazov in the late 1990s, and subsequently continued by you after your election to the presidency in 2007.

In Ashgabat, the project involves construction of new buildings, stadiums, public squares, fountains, and expansion of roads. In order to make way for these construction projects, tens of thousands of residents have been evicted and had their homes demolished. Dozens of neighborhoods in central Ashgabat consisting of private homes have been demolished. Among them are neighborhoods that include Turkmenbashi Avenue, Atabayev, Kalinin, Molanepes, Seidy, Zhukovsky, Chekhov, Stepnaya, Vozrozhdeniya, Akademik Petrov, Belinskaya, Podvoyskogo, Sovetskaya, Borodinskaya, Krupskaya, Inzhenernaya, Krylov, Atrekskaya, Shaumyan, Shota Rustaveli, Gogolya (currently Bitaraplyk), Kemine, Lakhuti streets, and more recently Krasina Street, and others. We are also aware that since 2001 numerous house demolitions have taken place in Kolkhoz Leningrad, Karadamak, Keshi, Telestudia, Khitrovka, Nakhalstroy, Chogonly, and Gunesh neighborhoods and more recently are taking place in Gazha neighborhood. Demolitions are scheduled to continue through 2020 in other areas of Ashgabat.

In some recent examples, in the neighborhood known popularly referred to as "Nakhalstroy," in June through August 2011 the authorities evicted and demolished the homes of hundreds of home owners to allow for the construction of a new

stadium. Human Rights Watch also received reports of the illegal eviction and demolition of the homes of at least 35 families in the kolkhoz Leningrad neighborhood, next to Nakhalstroy, also in June 2011.

In July and August 2010, local authorities started demolishing dachas and houses built in Chogonly, a suburb of Ashgabat behind the Karakum canal, to clear the area for the expansion of roads and construction of a new international airport and new apartment buildings. These demolitions were particularly painful for many Chogonly residents, as they had moved to Chogonly after having been subject to eviction and demolition of their homes in the Berzenghi neighborhood some 10 years earlier, when President Niyazov ordered the removal of all private homes there. At that time, many of the evictees from that neighborhood decided to move to Chogonly, where new home construction had been authorized. None of them could have expected at the time that their neighborhood would again be demolished.

### **Forced Evictions and Lost and Damaged Property**

Most of the property owners and building residents in Ashgabat Human Rights Watch interviewed were subject to expropriation and demolition have been forcibly evicted, in some cases without notice, and with their possessions forcibly removed, damaged, or lost. In other cases, the government has begun to demolish buildings in which residents were still living or, in at least one case, demolished a home with the owners' possessions still inside, without first allowing them adequate time to relocate.

Human Rights Watch research found that in some cases Khakimlik officials and police forcibly entered apartments to force people to vacate their homes. A lawyer representing former residents of the village of Gunesh, some 18 km from Ashgabat, told Human Rights Watch that in 2009 Khakimlik authorities and police forcibly entered a number of houses without a court or other sanction and without residents' knowledge. In one case, officials from the local Khakimlik removed personal belongings from homes in advance of a demolition that took place without any prior notification to or consent of the residents. Evictees' personal belongings, including jewelry and video equipment, are still missing. Evictees still have not received alternative accommodation and were forced to move in with their relatives in other villages.

These incidents would seem to violate the constitutional rights of the residents who, according to Article 24 of the Turkmen Constitution, are guaranteed that "no one can enter or break in whatever way the inviolability of the home against the will of the persons living in it". Indeed article 148 of the Criminal Code of Turkmenistan makes it an offence, punishable up to two years of imprisonment, to illegally enter a dwelling or to enter the dwelling against the will of persons living in it with physical force or a threat to use physical force.

Evictees from apartments in a large building on Turkmenbashy Avenue told Human Rights Watch that in mid-2010, officials from the Kopetdag etrap started demolishing one part of the building while residents in another part of the building were still in their apartments, presenting serious risks to those residents' health and safety. Residents also told Human Rights Watch that in order to facilitate rapid evictions of the building already under demolition, the Khakimlik authorities sent employees of the district housing administration (in Russian, *dompravlenie and ZhET*) to participate in the removal and transport of property and evictees. Evictees told Human Rights Watch that in the course of these evictions, property including furniture, clothing, and jewelry was lost or damaged. Evictees in other locations similarly told Human Rights Watch about property that was lost or damaged in the course of forced evictions carried out by the authorities.

Human Rights Watch also interviewed residents who stated that demolitions of some buildings on Galkynysh Street (formerly Atabaeyv) in 2007-2009, which were demolished for the construction of a new presidential palace "Oguzkhan," were also undertaken while residents remained in the building.

In other cases, in order to compel evictees to vacate their houses when they refuse to do so voluntarily, district house administrations cut off electricity, water and gas to whole neighborhoods well in advance of actual demolitions. For example, in 2001 and 2002 in the March 8th neighborhood, and in 2005 and 2006 in the Karadamak neighborhood the authorities cut off services to buildings months in advance of demolitions, making it impossible for residents to remain in their homes.

In a case involving blatant violation of property and family rights, in 2009 a family in the village of Gunesh received notification that their house had been slated for demolition but were unable to vacate the house quickly because they had no place to take their furniture and other belongings. No date on which the demolition would commence was provided in the notification, and while the family was not at home, the authorities unexpectedly began to demolish the house, burying all of the family's possessions in the process. The head of the family later returned home to see the remnants of his family's belongings under the ruins of his house. He received neither alternative accommodation nor compensation for his lost property. This family was taken in by some of their relatives. A lawyer who is helping several evictees from Gunesh submit complaints to the United Nations Human Rights Committee told Human Rights Watch that about 2,000 houses were illegally demolished in Gunesh in 2009 without provision of alternative accommodation to evictees. The local Khakimlik authorities did not provide any official explanations except that they demolished houses by the president's order.

### **Domestic and International Legal Standards on Expropriations and Forced Evictions**

Human Rights Watch believes that the forced evictions and demolitions of homes in Ashgabat and the Akhal region and the manner in which they are carried out violate

Turkmenistan's domestic laws and Turkmenistan's obligations under international law. Turkmenistan's constitution and other laws guarantee the right to private property, protect against arbitrary interference with this right, and even guarantee state support in obtaining housing. Article 9 of the constitution of Turkmenistan guarantees the right to private property. While the government has the right to expropriate property in "situations enumerated by law," article 24 of the constitution states that "no one can be deprived of their living accommodation except on grounds established by law." Article 100 of the Housing Code states that evictions from state-owned or publicly-owned houses can only be carried out following a court decision. Evictions can take place without reference to a court only with regard to persons unlawfully occupying housing. In such cases evictions are sanctioned by a prosecutor. Article 101 of the Housing Code provides that citizens who are to be evicted from state-owned houses must be provided with alternative accommodation if the house they reside in is about to be demolished.

According to Article 150 of the Property Law of Turkmenistan, expropriation of a home is contingent on the provision of adequate alternative housing. The Property Law specifically states that in the event of land expropriation for state or public needs, the party that expropriates the land is obliged to provide the evictee with a new home of equal size and equivalent quality for the evictee's ownership. In other words, it is the Turkmen government's responsibility to resettle expropriated evictees and to ensure they are resettled in appropriate accommodation in accordance with the standards established in Articles 42 to 45 of the Housing Code, which establish minimum size requirements of square meters per person.

In addition, Human Rights Watch believes that the government's policy of expropriation, eviction, and demolition in Ashgabat violates Turkmenistan's obligations under international law, which sets limits on states' power to expropriate and protects against unlawful or arbitrary expropriation of property, unlawful and arbitrary interference with the family, and forced evictions and. Article 17 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkmenistan is a party, guarantees the right not to be subjected to arbitrary or unlawful interference with one's privacy and home. In its General Comment 16, the Human Rights Committee determined that "interference with a person's home can only take place 'in cases envisaged by the law' and that the law "should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances."

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Turkmenistan is also a party, establishes the obligation to protect the right to adequate housing, which includes protection against forced eviction. In its General Comment 4 on article 11 of the Covenant, the UN Committee on Economic, Social and Cultural Rights (CESCR) states that "all persons should possess a degree

of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”

In addition, the treatment of evictees in the course of forced evictions in Ashgabat in certain cases rises to a level of severity that constitutes inhuman and degrading treatment, in violation of article 7 of the International Covenant on Civil and Political Rights. This can be the case when the government undertakes deliberate destruction without regard for residents’ welfare and deprives them of most of their personal belongings and leaving them without shelter and assistance, as described above.

Human Rights Watch believes more steps can be taken to ensure the human dignity of those evicted at the last moment as well as sufficient protection of the health and safety of evictees and the personal possessions and other private property remaining in homes at the moment of demolition.

### **Failure to Provide Alternative Accommodation or Adequate Compensation**

We are aware of hundreds of property owners and residents whose homes have been subject to expropriation and demolition and who have not been given any accommodation or monetary compensation in return for lost property. This is inconsistent with Article 24 of Turkmenistan’s constitution and other laws.

### Denial of Property Rights

In June 2011, authorities from the Khakimlik of Chandybil etrap refused to provide at least 50 residents of the Nakhalstroy neighborhood with alternative accommodation or monetary compensation, claiming that the houses had been illegally constructed in 1986-1991. According to evictees, representatives of the Khakimlik said that the previous municipal authorities (In Russian, *rayonniy ispolkom narodnih deputatov*) distributed the land plots for house construction in that area illegally, and therefore evictees are not entitled to any accommodation as compensation for their demolished homes. In the kolkhoz Leningrad neighborhood, officials have similarly told at least 35 property owners and residents that they are not entitled to alternative accommodation because in the 1980s, local authorities dispensed plots for house construction improperly. Property owners whose houses were demolished in Chogonly also did not receive any alternative accommodation.

Khakimlik officials regularly require property owners to show proof of ownership of their homes in order for them to receive alternative accommodation following expropriation and demolition of the properties. However, the authorities denied many property owners in the Nakhalstroy, Kolkhoz Leningrad, and Chogonly neighborhoods alternative accommodation even when residents possessed proof of legal ownership of their homes, such as purchase-sale agreements for the property, ‘house books’ (a document issued to a house or apartment owner listing who owns the property and who resides there), and technical passports (a document showing a



floor plan of the property), together with residence registration stamps in passports (*propiska*, in Russian).

#### Improper Distribution of Alternative Housing

In some cases, the authorities have apparently provided evictees in Ashgabat with alternative accommodation. However, many of them have faced difficulties securing this housing and their ownership rights of the new property.

Article 105 of the Housing Code provides that following relocation, a competent court should issue a decision confirming the new occupant as the owner of the specified location and address of new accommodation. However, evictees in Ashgabat who have been resettled to alternative accommodation have not received such decisions. Khakimlik authorities instead have provided evictees a so-called ‘letter of guarantee’ (in Russian, *garantiinoe pismo*). The letter of guarantee is issued by district Khakimlik authorities or the city housing office (In Russian, *Gorzhilupravlenie*) and states the address of the new accommodation, the number of rooms and the name of the family to whom it was provided. It is stamped and signed usually by the head of the city housing office, or a Khakim (head) of a district Khakimlik.

However, evictees told Human Rights Watch that the letters of guarantee were not sufficient for them to secure their ownership rights of a new property. Evictees told Human Rights Watch about numerous instances in which several families received letters of guarantee for the same house or apartment, causing confusion, conflicts and frustration among evictees. In one case which Human Rights Watch documented, a family had arrived at the apartment indicated in their letter of guarantee only to find another family already living in the apartment. In response to complaints by some evictees about the problems faced with the letters of guarantee, Khakimlik officials claim that they cannot accommodate all evictees due to the large number of house demolitions.

In another type of case, Ali (not his real name), a resident of central Ashgabat, told Human Rights Watch that because he had a family member with disabilities, he was entitled to receive an apartment on a lower floor to accommodate the disability, but the Khakimlik authorities told him that they would not accommodate this request. They instead provided him with an apartment on the third floor of a four-story building without an elevator.

#### Failure to Compensate for Real Home Values or Provide Accommodation of Commensurate Size

Evictees told Human Rights Watch that no appraisals of their properties were performed before the demolitions occurred. When determining the kind of alternative accommodation to be provided to evictees, the Khakimlik authorities have relied solely on the size of the property as indicated in its technical passports held by the homeowner. As result, property owners often receive properties of

lesser value than their existing properties, but do not receive compensation for any loss incurred. For example, residents who lost homes in the center of Ashgabat, where property values are significantly higher than in other part of the city, were relocated to homes in the suburbs or outskirts, where property values are significantly lower. These residents did not receive any form of compensation for the difference in value between their existing homes and the alternative homes provided to them.

In other cases, owners of large homes with multiple outbuildings described to Human Rights Watch that the outbuildings on their properties, which also constitute significant living space for large extended families, are not registered by State Technical Inventory Service (in Russian *GBTI*). The authorities refused to consider this additional living space when determining the size of alternative accommodation to be provided to evictees, and considered only the square footage of the main house as the basis for the new home.

As a result, some property owners have received small homes which cannot reasonably accommodate large extended families. For example Nurmamed (not his real name) has an extended family of thirteen people, including adult children and their children, who lived in a large house with many smaller outbuildings. Following the expropriation of his house in 2007, Nurmamed received only a four-room apartment insufficient for thirteen people. In another case, in 2005 Mukhamed (not his real name), a resident of Ashgabat with ten family members living in a main house with several outbuildings, also received only a four-room apartment. Other evictees simply received homes or apartments smaller than they previously owned. They also did not receive monetary compensation for their losses. For example, in 2005, Mergen (not his real name) and his family owned a large house of 130 square meters. Mergen and his family were evicted with only two days' notice. After their house was demolished, they received an apartment of 100 square meters. The Khakimlik authorities never paid Mergen the difference for the square meters that he lost during relocation. In 2007, Jakhan (not her real name), a local resident of central Ashgabat, owned a 103 square meter house. After the authorities demolished it, they provided her with an 82 square meter apartment. They refused to provide her a larger apartment despite the fact that she was entitled to at least the same size apartment. The Khakimlik authorities also did not pay any monetary compensation to Jakhan. When these and other residents complained to the Khakimlik authorities the latter told residents that they will not receive anything further and that if they want additional apartments, they must use their own money.

#### Pressure to Pay for Alternative Accommodation

In 2008, after expropriating Nurbibi's (not her real name) apartment in the city center, Khakimlik officials of Kopetdag etrap provided her with a larger apartment in another location. Nurbibi told Human Rights Watch that the officials demanded that she pay the equivalent of US\$2,000 to compensate the Khakimlik for the difference in value

between her prior home and the home provided to her. As stated above, the authorities calculate the value of homes solely on the basis of size, and determine the price per square meter. When Nurbibi asked for a smaller apartment instead, the Khakimlik authorities refused. Since Nurbibi ultimately could not pay the difference in value, she received lease documents instead of ownership documents, thereby depriving her and her children of ownership rights. Nurbibi told Human Rights Watch that some of her neighbors faced similar situations where they could not afford to pay for the difference in square meters between previously owned apartments and those provided by the Khakimlik.

In some cases in which the authorities disputed the residents' ownership rights, they refused alternative accommodation to evictees and instead suggested that they purchase new apartments at unaffordable prices. For example, according to some evictees from the Nakhalstroy neighborhood, the Chandybil Khakimlik authorities in 2011 suggested that evictees could purchase apartments at their own expense in new elite residential buildings, where three and four-bedroom apartments cost approximately US\$230,000-US\$300,000. With an average monthly salary in Turkmenistan of about US\$200, the purchase of such a costly apartment is out of reach for most citizens. Khakimlik authorities did not offer any discount to evictees as a form of monetary compensation for the loss of their property. In addition, Khakimlik authorities also suggested evictees could build new houses in another location without government support.

### **Insufficient notification process and lack of transparency**

The notification system developed by Khakimliks in relation to house demolitions appears to be insufficient and inappropriate. Evictees told Human Rights Watch that the only documentation that they received about scheduled house demolitions was a short notice from district house administrations (*in Russian, dompravlenie and Zhilizhno-Ekspluatatsionniy Trest, or ZhET*) informing them that their house has been listed for demolition and requiring them to come to the district mayor's office. Evictees are not provided with a date on which the demolition is scheduled to take place, just a general time frame when demolitions may commence. As a result, residents are uncertain as to when their property and possessions are liable to be destroyed.

Evictees received notifications with a range of different time limits given for them to vacate their homes before the demolitions started. In some extreme cases, people had only 24 hours to pack their belongings and vacate their homes, as was the case of residents on Tashkentsya Street who were given between 24 and 72 hours to vacate their homes prior to demolitions in October 2005. In such cases, people received telephone calls and were told to return from work to pack their belongings and vacate their houses. In July and August 2010 the authorities demolished homes at the intersection of Turkmenbashi Avenue and Hero Atamurat Niyazov Street (formerly Chekhov Street), for the Khakimlik of Kopetdag etrap notified residents as

little as a few days prior to the demolitions. The authorities told residents the demolitions were to clear the way for urgent road expansion work.

In March 2006, the authorities demolished, without notification, the 392 square meter home of Gurbansoltan Achilova, a resident of the Berzenghi neighborhood. She built the house at her own expense on a land plot given to her in August 1992 by the Proletarskiy (currently Kopetdag district mayor's office). The Khakim (head) of the Kopetdag etrap informed Achilova about the demolition of her house in May 2007, more than a year after the house had been actually demolished. In spite of her numerous complaints to various state agencies, including the general prosecutor's office, the Kopetdag etrap court, the supreme court and presidential office, Achilova has not received any accommodation or financial compensation in return for her illegally demolished house.

Evictees told Human Rights Watch that Khakimlik authorities have not provided them with information regarding the reasons for the demolitions, other than, in some cases, general statements regarding the necessity to demolish houses to make way for new construction. The general plan of the city, which indicates all sites identified for house demolitions, has not been made public.

The Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment 7 has addressed the issue of notification in cases of forced evictions. The committee calls on governments to ensure a number of procedural safeguards, including:

- a) an opportunity for genuine consultation with those affected;
- b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- c) information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- e) all persons carrying out the eviction to be properly identified;
- f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- g) provision of legal remedies;
- h) provision, where possible, of legal aid to persons who require it to seek redress from the courts.

We urge you to ensure that all of these requirements are met by the authorities involved in evictions.

## **Means to Challenge Evictions and Demolitions**

One component of a fair and transparent expropriation process is the existence of a mechanism for resolving grievances. Such a mechanism should ensure that those affected by expropriation have the opportunity to register their grievances and that those grievances would be addressed in a clear and transparent manner. Article 26 of the Law on Property states that expropriation of property is allowed only in cases and in a manner established by the law of Turkmenistan. If an owner disagrees with the decision to forcibly alienate the property, such expropriation can take place only after being resolved in a court.

However, most evictees told Human Rights Watch that they were kept uninformed about their legal rights and of the legal remedies available to them under the law to challenge the evictions and demolitions in court. Most property owners were not aware that the Housing Code requires a court decision prior to demolition of any house. People were not provided with legal representation before, during or after the evictions and demolitions.

In addition, as noted above, some residents were given only a few days' or weeks' notice of the impending demolition, making the use of legal remedies nearly or completely impossible for most residents facing eviction. In other cases, residents have been given notification of 30 days up to a few months, which, while more reasonable than a few weeks or days, nevertheless allowed very little time for residents to appeal to court against the actions of the authorities.

Many evictees also expressed distrust in the judicial system due to what they believe to be the strong influence of the executive authority over the courts. Some evictees told Human Rights Watch they are afraid to appeal to the court to challenge the actions of the Khakimlik authorities out of fear of retaliation.

## **Threats and Intimidation of Property Owners**

Many evictees told Human Rights watch that Khakimlik employees and employees of the city housing office (in Russian *Gorzhiilupravlenie*) treated them in a hostile, disrespectful, inconsiderate, or intimidating manner. Many evictees already felt particularly vulnerable after having lost their homes, often under chaotic conditions due to extremely short notification prior to demolition and forced relocation to another area of the city in uncertain conditions. This suffering was then compounded by the indifferent and hostile attitude of the authorities especially during the provision of alternative accommodation. Khakimlik employees threatened to forcibly evict residents who resisted evictions; threatened to not resettle some residents who referred to protections, set out in in Turkmenistan law, for persons facing eviction; or threatened not to provide them with any alternative accommodation at all if evictees protested against the alternative accommodation provided to them. As a result of these types of threats, some residents felt forced to accept accommodation offers

which were arbitrary, unfair, and inconsistent with the requirements for alternative accommodation provided for in law.

For example, Shirin (not her real name), a life-long resident of central Ashgabat, whose house was demolished in 2008 in order to make way for the construction of Oguzkent hotel, told Human Rights Watch that when she refused to vacate her house the authorities threatened to bulldoze her together with her house. In response to that threat, Shirin threaten to kill herself if the Khakimlik authorities refused to provide her with reasonable accommodation. Two months later, Shirin voluntarily left her house after the Khakimlik of Kopetdag etrap provided her and her family with the type of apartment she sought. When describing the experience to Human Rights Watch, Shirin tearfully recalled, “They took my property; they demolished my home in order to build elite buildings to sell for thousands of dollars. In my new home I need to make repairs and buy furniture. I need to start my life from zero. At the very least I could have received a bit of respect and normal treatment.”

### **Public Protest and the Creation of a Commission for Complaints Regarding House Demolitions**

As you may know on June 8, 2011, a group of women from the Nakhalstroy neighborhood took part in a protest walk together from Nakhalstroy to the Oguzkent hotel to draw the government’s attention to the demolition of their houses and their subsequent difficulties in receiving alternative accommodation. These women apparently believed that the only possibility for drawing attention to the risk that they will be homeless was to undertake a public protest. As you may be aware, public protests are extremely rare in Turkmenistan given incidents in which the government has cracked down on peaceful meetings and demonstrations. That these women were willing to take a significant risk in publicly protesting their evictions and inadequate accommodation reflects the level of public resentment towards the arbitrary policies of Khakimlik authorities in provision of alternative accommodation to evictees. To the best of our knowledge, this group of women was stopped by police on their way to Oguzkent hotel. Human Rights Watch would like to know on what grounds these women were stopped by police from having a peaceful public protest and what further action police took with regard to the women, if any, after they stopped the protest. We would also like to know whether their housing situation has been resolved, i.e. whether they have been provided with alternative accommodation.

Soon after the June 8 incident, Turkmen mass media reported that the government was preparing a draft decree on the creation of an inter-agency commission to consider complaints from citizens living in areas identified for construction projects. We respectfully welcome your decision to create a commission on this highly important issue, and we hope that the work of this commission will be fair, transparent, and efficient, and that it will effectively consider complaints from all the victims of administrative abuse under house demolitions. It is important that this

commission is mandated to review and find appropriate solutions to all complaints involving expropriations, evictions, and demolitions that have already taken place.

The commission should also investigate why the expropriations and demolitions in the city of Ashgabat have been allowed to take place given that they clearly violate Turkmenistan's constitution and national laws and the country's international human rights commitments. As part of this process, the authorities should investigate all violations of the right to private property, including the broken, ruined and missing property removed from homes and apartments as a result of forcible evictions. In addition, in cases of forced evictions, the government must investigate violations of the right to private and family life.

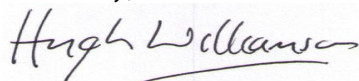
In addition, we respectfully urge you immediately to stop all further expropriations, evictions and demolitions until they can be carried out in a manner consistent with Turkmen national law and Turkmenistan's international commitments, and ensure that property owners have access to alternative accommodation to which they are entitled under national law or fair compensation to which they are entitled under international law. All property owners affected by expropriation should be given access to an effective complaint mechanism and provided with a remedy including compensation.

We also respectfully call on you to insist on a transparent and fair notification process based on the criteria set in General Comments 4 and 7 of the Committee on Economic, Social and Cultural Rights for any future house demolitions. People who may lose their property for development in the city of Ashgabat and other locations should have clear information about the legal basis for the expropriation, the timing of the expropriation, their compensation and resettlement options, and the means of appealing decisions so they do not have to live in uncertainty.

We also encourage you to insist that the Khakimlik authorities in the city of Ashgabat hold regular, well-publicized public meetings where construction and demolition plans are discussed and to establish a meaningful mechanism for resolving complaints. The compensation calculation for individual properties should take into account the full and actual sale value of each property.

We look forward to receiving information regarding the steps that you and your government will take in response to these concerns.

Sincerely,



Hugh Williamson  
Executive Director  
Europe and Central Asia Division