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TURKMENISTAN: Questions ignored on tortured prisoners of conscience

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Turkmenistan has ignored some questions by the UN Committee Against Torture about tortured Muslim and Jehovah's Witness prisoners of conscience, but provided details of a Sunni Muslim prisoner's three trials. The country also continues to deny the right to conscientious objection to military service.

Young Muslim leader Bahram Saparov serving a 15-year-prison term in Turkmenistan's isolated top-security Ovadan-Depe Prison, in the Karakum Desert 70 kilometres (45 miles) north of the capital Ashgabad [Ashgabat], has been tried and sentenced three times, a delegation from Turkmenistan's government claimed to the United Nations (UN) Committee Against Torture (CAT). The most recent trial, the government claimed, was in June.

The government delegation completely ignored the Committee's questions as to why prisoner of conscience Saparov – and other prisoners – are being held incommunicado without contact with anyone except officials and possibly fellow-prisoners, and why his three trials were not in open court (see below).

The government delegation also did not mention the approximately 20 people sentenced with prisoner of conscience Saparov at his original trial, as well as the serious physical torture inflicted on him (see below).

The government delegation also did not reply to questions from the Committee Against Torture about why prisoner of conscience Jehovah's Witness Mansur Masharipov had been tortured, including by severe beatings and injections with unknown drugs. It also ignored Committee questions about the torture of the other current Jehovah's Witness prisoner of conscience Bahram Hemdemov, and of Jehovah's Witness former prisoners of conscience Mahmud Hudaybergenov and Ahmet Hudaybergenov (see below).

Committee Against Torture questions about whether independent investigations of torture complaints were carried out were also ignored by the government. Under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Turkmenistan is obliged to arrest and try under criminal law any person suspected on good grounds of having committed torture (see below).

Turkmenistan's Ambassador and Permanent Representative to the UN in Geneva, Ambassador Atageldi Haljanov, also denied the internationally recognised right to conscientiously object to compulsory military service, as Turkmenistan has repeatedly done at the UN. Six conscientious objectors – all of them Jehovah's Witnesses – are known to have been convicted and sentenced in Turkmenistan so far in 2016. A full review of the country's record by the UN Human Rights Committee is due to take place in March 2017 (see below).

No time to discuss cases?

The Committee Against Torture's Co-rapporteurs on Turkmenistan had raised the cases of prisoners of conscience Saparov, Masharipov and Hemdemov at the first 2016 hearing on Turkmenistan's record before the Committee in Geneva on 21 November. The Co-rapporteurs also reminded the seven-member government delegation of questions on other cases it had failed to answer in the government's 22 August written responses ahead of the hearings.

Ambassador Haljanov of Turkmenistan's Permanent Mission to the UN in Geneva gave the partial responses of the government delegation on named individuals during the 22 November session. However, he claimed to the Committee that he did not have time to discuss the cases of prisoners of conscience Saparov and Masharipov, and that the government delegation would submit its responses in writing. It did so on 24 November.

No reply

Forum 18 tried to reach Ambassador Haljanov at Turkmenistan's Mission to the UN in Geneva. The woman who answered the

phone on 5 December refused to put Forum 18 through to Ambassador Haljanov because "I do not know you". She asked Forum 18 to send written questions.

Forum 18 asked Ambassador Haljanov in writing mid-morning Geneva time on 5 December about his delegation's responses to the Committee Against Torture on prisoners of conscience Saparov and Masharipov.

On Saparov, Forum 18 asked why the government delegation's response did not explain why he is being held incommunicado without contact with anyone except officials and possibly fellow-prisoners, and why the government did not explain why Saparov had not been tried in open court where the evidence against him could be heard. Forum 18 asked for copies of the three verdicts against him. Saparov led a Hanafi Sunni Muslim community in Turkmenabad. He and about 20 members of his group were given long prison sentences in May 2013. He and at least two others were transferred to Ovadan-Depe Prison, where torture is frequent and prisoners are held incommunicado without contact with anyone except officials and possibly fellow-prisoners (see F18News 26 September 2016 http://www.forum18.org/archive.php?article_id=2218).

On Masharipov, Forum 18 asked why the government delegation's response did not say anything about the torture he endured (severe beatings, injections with unknown drugs in a drug rehabilitation centre) and why it did not explain why he is being punished for exercising his rights to freedom of religion or belief. Police raided Jehovah's Witness Masharipov's home in Dashoguz in July 2014, confiscated (subsequently destroyed) religious literature, severely tortured him, injected him in a Drug Rehabilitation Centre (from which he escaped) with unknown drugs. He was jailed after June 2016 arrest for one year (see F18News 21 September 2016 http://www.forum18.org/archive.php?article_id=2217).

Although Ambassador Haljanov rejected suggestions during the hearing that the Turkmen government is "closed" and insisted that it cooperates with foreign and local media, Forum 18 had received no response to its questions to him by the end of the working day in Geneva on 6 December.

Another member of the government delegation to the Committee Against Torture hearings, Pirnazar Hudainazarov, Chair of the Mejlis (Parliament) Legislative Committee, refused to speak to Forum 18. Reached on 6 December, he told Forum 18 to address its questions to the Foreign Ministry before it was able to ask any questions. He then put the phone down.

Prisoner of conscience Saparov: Sentenced 3 times, repeated severe torture

The 34-year-old prisoner of conscience Saparov – who is married with three children - led a Hanafi Sunni Muslim community in the eastern city of Turkmenabad [Turkmenabat] (formerly Charjew) in Lebap Region until his imprisonment in March 2013.

Saparov organised meetings in homes from 2007 to study the five pillars of Islam and the attitude of Islam to the family and neighbours. Up to 10 young people initially joined the group, but it later grew to about 60 people in two groups.

Saparov and members of his group soon came to the attention of the Ministry of State Security (MSS) secret police. In 2008 and 2009, MSS officers frequently summoned them individually for interrogation. Officers tortured some of the group.

The police and MSS secret police arrested Saparov and about 20 others on 9 March 2013 and all were convicted at a mass, closed trial in May 2013. After his conviction, Saparov was initially imprisoned at the labour camp in Tejen, south-east of the capital Ashgabad. He was transferred to the top-security Ovadan-Depe prison in October 2014.

An individual who saw prisoner of conscience Saparov in the prison in late 2014 – the last time he is known to have been alive – barely recognised him. "Bahram's face – and the faces of the other prisoners in the block – were unrecognisable because of the beatings," one source told Forum 18. "Officers in uniform came weekly from Ashgabad in helmets and riot gear and beat the prisoners." Two others known to have been sentenced with him - Adylbek and Meylis (last names unknown) - were also seen alive in the prison about the same time (see F18News 26 September 2016 http://www.forum18.org/archive.php?article_id=2218).

After the arrest of Saparov and the 20 or so others, police and MSS secret police are believed to have arrested further group members. Forum 18 has been unable to find out what happened to them.

Prisoner of conscience Saparov: Serious charges

In its 24 November information to the Committee Against Torture on Saparov's case, the government delegation claimed that the Muslim leader had been sentenced on 22 May 2013 at Lebap Regional Court to 15 years' imprisonment under a range of serious charges.

According to the government delegation, Saparov was sentenced under Criminal Code Article 174, Part 1 ("Conspiracy to seize power"), Article 175, Part 2 ("Calls to violent change of the constitutional order"), Article 177, Part 3 ("Incitement of social, ethnic or religious hatred"), Article 275, Parts 1 and 2 ("Creation of an organised group, criminal association or other criminal structures or participation in their activity") and Article 291 ("Theft of extortion of weapons, military materiel, explosive substances and

explosive devices"). This last charge was subject to Article 14, which covers cases where an individual did not manage to carry out the crime through circumstances that did not depend on themselves.

Under Criminal Code Article 63, Part 1, which covers how to aggregate punishments when more than one crime is involved, Saparov was given a punishment under each Article separately.

The government delegation claimed that on 4 July 2014 – while already imprisoned – prisoner of conscience Saparov was tried and punished again on the basis of alleged "the appearance of new facts (testimonies against him)" relating to an earlier period. The government delegation did not reveal where this trial took place, but it may have been in Tejen Prison where he was then being held.

Prisoner of conscience Saparov was again sentenced to 15 years' imprisonment. He was again convicted under Criminal Code Article 275, Part 2 ("Creation of an organised group, criminal association or other criminal structures or participation in their activity"), as well as Article 227, Part 4 ("Theft"). This time Article 63, Part 5 was used, under which a previous criminal sentence is subsumed into the punishment given in the latest case.

The third trial took place on 7 June 2016, the government delegation told the Committee Against Torture. Again it took place on the basis of an alleged "appearance of new facts (testimonies against him)" relating to an earlier period. Again the government delegation did not reveal where this trial took place, but this may have been in Ovadan-Depe Prison where, according to the government delegation, he is still being held.

At this third trial, prisoner of conscience Saparov was given a further 15 year prison term again under Criminal Code Article 227, Part 4 ("Theft"), as well as Article 231, Part 2 ("Robbery"). Article 63, Part 5 was again used, subsuming the two earlier punishments into the latest 15-year sentence.

Prisoner of conscience Saparov: Closed trials, held incommunicado

The government delegation claimed in its response to the Committee Against Torture that Saparov's relatives have been able to hand in 55 food parcels for him. The government delegation did not mention any meetings with relatives.

Human rights defenders have told Forum 18 that while the authorities may have accepted some food parcels for Saparov in Ashgabad since his transfer to Ovadan-Depe, there is no guarantee that they were handed on to him. They point out that all alleged "Wahhabi" prisoners in Ovadan-Depe, who are held separately from other prisoners, are denied all visits and all communication with the outside world. Many prisoners sent there have not been heard of for many years and may have died there, possibly under torture.

Human rights defenders note that prisoners in ordinary labour camps, such as Tejen where Saparov was originally held, can receive visits and food parcels, though prison staff often demand bribes for this. Prison conditions are harsh, and as noted above in Saparov and other prisoners' cases, torture by the authorities (see Forum 18's Turkmenistan religious freedom survey http://www.forum18.org/Archive.php?article_id=1676).

The government delegation completely ignored the Co-rapporteurs' questions on why many prisoners in Turkmenistan – including Saparov – are held incommunicado without contact with anyone except officials and possibly fellow-prisoners, and why trials are closed.

Prisoner of conscience Saparov's prison address is:

Ahal velayat

Upravlenie politsii Ahalskogo velayata

uchr. AH-T/2

Saparovu, Bahramu

Turkmenistan

Prisoner of conscience Masharipov: No reply on torture

The 32-year-old Masharipov, an ethnic Uzbek Jehovah's Witness from the northern city of Dashoguz, was sentenced to one year's imprisonment on 18 August in his home city for allegedly assaulting a police officer back in July 2014, charges he denies. Following his 2014 arrest, he was tortured. He escaped from a Drug Rehabilitation Centre where he was being injected with unknown drugs that harmed his health. He was re-arrested in Ashgabad in June 2016 before being transferred back to Dashoguz for trial (see F18News 21 September 2016 http://www.forum18.org/archive.php?article_id=2217).

Evidence of torture inflicted on prisoner of conscience Masharipov was in 2014 submitted to the UN Working Group on Arbitrary Detention and the Special Rapporteur on Freedom of Religion or Belief (see F18News 1 August 2014 http://www.forum18.org/archive.php?article_id=1981).

Despite being asked both in advance and by Committee Against Torture Co-rapporteurs during the first day of hearings before the Committee on 21 November, the government delegation failed to say whether any independent investigation had been conducted into the torture of Masharipov.

Under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Turkmenistan is obliged to arrest and try under criminal law any person suspected on good grounds of having committed torture (see Forum 18's Turkmenistan religious freedom survey http://www.forum18.org/Archive.php?article_id=1676).

In its 24 November written submission to the Committee, the government delegation merely recounted the known details of prisoner of conscience Masharipov's imprisonment and adding that he is an "adherent" of the unregistered Jehovah's Witnesses. (Religious communities without registration are not allowed to exist, in defiance of Turkmenistan's international human rights obligations - see Forum 18's Turkmenistan religious freedom survey http://www.forum18.org/Archive.php?article_id=1676.) The government delegation then noted that Masharipov is being held in Seydi Labour Camp.

The government delegation claimed Masharipov receives "regular" visits in prison from relatives. It said a short visit had taken place on 3 November and a longer visit from his brother Ulugbek on 19 November. It added that Masharipov had been allowed food parcels on 23 August and 22 September.

Prisoner of conscience Hemdemov: No reply on torture

Similarly, the government delegation failed to answer repeated questions about reports that fellow-Jehovah's Witness prisoner of conscience Hemdemov had been tortured in pre-trial detention.

Police arrested Hemdemov during a March 2015 raid on his home, following which they tortured him. The 53-year-old Jehovah's Witness is serving a four-year sentence handed down in May 2015 on charges of inciting religious hatred, charges he denies. He is being held in the general regime section of the Seydi Labour Camp (see F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196).

In its 22 August written submission to the Committee Against Torture, the government delegation claimed that Hemdemov, "with a view to the promotion and incitement of religious enmity .. engaged in his home with members of this group in propaganda activities, thereby inciting religious discord and enmity towards another religion".

During the November Committee hearings, the government delegation did not even mention Hemdemov, despite a repeated request from the Co-rapporteurs for information on whether any independent investigation had taken place into the torture of him.

Prisoners of conscience Masharipov and Hemdemov's address in prison is:

746222 Lebap velayat

Seydi

uchr. LB-K/12

Turkmenistan

Prisoners of conscience Hudaybergenovs: Still no reply on torture

In advance of the hearings, the Committee Against Torture also asked the government delegation about the torture of two Jehovah's Witness former prisoners of conscience, the brothers Mahmud Hudaybergenov and Ahmet Hudaybergenov.

In March and October 2015 the UN Human Rights Committee found that Turkmenistan had violated the rights of four young men by imprisoning them for refusing compulsory religious service on grounds of religious conscience. The Committee also ruled that beatings and other maltreatment of the Hudaybergenov brothers, as well as of Zafar Abdullayev and Sunnet Japparov represented torture. Turkmenistan has failed to recompense these victims of human rights violations or change laws and procedures to prevent such violations recurring (see F18News 5 April 2016 http://www.forum18.org/archive.php?article_id=2164).

The 22 August written response from the government delegation failed to even mention the Hudaybergenov brothers and the torture they had undergone.

Five Muslim prisoners: No response on torture reports

Ahead of the November hearings, the Committee Against Torture asked the government delegation if any investigation had been undertaken into an incident in February 2015 in which five Muslim prisoners at Seydi labour camp were allegedly subjected to severe beating by prison guards.

Five Muslim men imprisoned on charges of religious extremism, who arrived in Seydi strict regime labour camp in February 2015, were severely physically tortured on arrival. Forum 18 was unable to establish if they – and a group of about 10 Muslim men transferred from that labour camp to the top-security Ovadan-Depe Prison in December 2014 – are prisoners of conscience jailed for exercising freedom of religion and belief (see F18News 18 February 2015 http://www.forum18.org/archive.php?article_id=2039).

In its 22 August response to the Committee, the government delegation claimed: "There is no information concerning the incident". Reminded by the Committee of the allegations of torture against the five Muslim men during the November hearings, the government delegation did not reply.

Harsh prison conditions, torture

Prisoners generally have to endure harsh conditions, especially for those unable or unwilling to pay bribes to secure access to reasonable living quarters, food or washing facilities. Although the general regime Seydi Labour Camp (where those imprisoned for exercising freedom of religion and belief are often held) has its own prison mosque, prisoners are afraid to attend, according to a former prisoner in the camp. "The mosque is open to any prisoner, but Muslim prisoners won't go for fear of being branded a 'Wahhabi'," the former prisoner told Forum 18. "So at Friday prayers there are usually only about four or five people." The former prisoner added that the prison library – which prisoners make good use of - has no religious literature (see F18News 5 April 2016 http://www.forum18.org/archive.php?article_id=2164).

The term "Wahhabi" is widely used in Central Asia for any devout Muslim, regardless of whether they do or do not commit or espouse violence or are Wahhabis.

Torture of prisoners is widespread. Prisoners branded as "Wahhabis" are given harsh treatment and are often confined in special sections of prisons. In February 2015 in the strict regime Seydi Labour Camp, Muslim prisoners convicted of alleged "Wahhabism" were subjected to brutal torture through physical attack. One man suffered a broken hand, while another suffered a broken rib and damage to his lung (see F18News 5 April 2016 http://www.forum18.org/archive.php?article_id=2164).

In 2011 the UN Committee Against Torture found that, in Turkmenistan "persons deprived of their liberty are tortured, ill-treated and threatened by public officers, especially at the moment of apprehension and during pretrial detention, to extract confessions and as an additional punishment after the confession" (see UN reference CAT/C/TKM/CO/1 <http://www.unhcr.org/refworld/docid/4ef0540f2.html>).

In March and October 2015 the UN Human Rights Committee found that Turkmenistan had violated the rights of four further Jehovah's Witness young men by imprisoning them for refusing compulsory religious service on grounds of religious conscience. The Committee also ruled that beatings and other maltreatment (such as a head being repeatedly bashed against a wall) of Zafar Abdullayev, Mahmud Hudaybergenov, Ahmet Hudaybergenov and Sunnet Japparov is torture and the government needs to provide reparations (see F18News 5 April 2016 http://www.forum18.org/archive.php?article_id=2164).

The UN Human Rights Committee adopted five further decisions in July 2016 that Turkmenistan had violated the rights of five more Jehovah's Witness former prisoners of conscience, including by the use of torture against them (see F18News 3 October 2016 http://www.forum18.org/archive.php?article_id=2220).

Latest rejection of conscientious objection to military service

Ambassador Haljanov also denied individuals' internationally recognised right to conscientiously object to compulsory military service. Turkmenistan has repeatedly denied this right to the UN, for example the Human Human Rights Committee (see eg. F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196). "Unfortunately there are citizens in our society who refuse their constitutional duty towards their homeland," he told the Committee Against Torture at the 22 November hearing.

Six conscientious objectors – all of them Jehovah's Witnesses – are known to have been convicted and sentenced in Turkmenistan so far in 2016 to punish them for refusing to perform compulsory military service on religious grounds. Five received two-year suspended sentences. The sixth received a one-year corrective labour sentence, where he lives at home under restrictions and a fifth of his wages are confiscated.

All six young men were sentenced under Criminal Code Article 219, Part 1. This punishes refusal to serve in the armed forces in peacetime with a maximum penalty of two years' imprisonment or two years' corrective labour (see F18News 3 October 2016 http://www.forum18.org/archive.php?article_id=2220).

No conscientious objection, no alternative service

Ambassador Haljanov told the UN Committee Against Torture in November 2016 that before bringing to court individuals who refuse military service on grounds of conscience, "complex measures are undertaken by a range of organisations in Turkmenistan, including youth organisations, local authorities, parents and elders to explain to them their constitutional duty".

Turkmenistan offers no alternative to its compulsory military service. Article 58 of the new 2016 Constitution describes defence as a "sacred duty" of everyone and states that military service is compulsory for men. Military service for men between the ages of 18 and 27 is generally two years (see F18News 3 October 2016 http://www.forum18.org/archive.php?article_id=2220). A proposed Alternative Service Law was reportedly drafted in 2013, but officials have been unable to tell Forum 18 if and when it might be adopted (see F18News 29 September 2014 http://www.forum18.org/archive.php?article_id=2002).

Turkmenistan has repeatedly, for example between 2012 and 2015, rejected UN Human Rights Committee calls for the country to allow conscientious objection to military service, along with other manifestations of freedom of religion and belief (see eg. F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196). In July 2016 the Human Rights Committee found that Turkmenistan violated the rights of five further Jehovah's Witness conscientious objectors under the International Covenant on Civil and Political Rights (ICCPR). These decisions bring to 9 the number of such findings by the Committee against Turkmenistan in conscientious objection-related cases. The Committee also adopted a list of issues for consideration of Turkmenistan's record under the ICCPR (UN reference CCPR/C/TKM/Q/2 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2F%2FTKM%2FQ%2F2&Lang=en). A full review of the country's record by the Human Rights Committee is due to take place in Geneva in March 2017 (see F18News 3 October 2016 http://www.forum18.org/archive.php?article_id=2220).

President Gurbanguly Berdimukhamedov signed a new Constitution into law on 14 September. It ignored recommendations in a July 2016 legal review of the proposed Constitution by the Organisation for Security and Co-operation in Europe (OSCE). Among other human rights and freedom of religion and belief concerns, the review recommended that the Constitution should make explicit mention of the right to opt for an alternative to military service (see F18News 3 October 2016 http://www.forum18.org/archive.php?article_id=2220).

The latest April 2016 Religion Law also repeated the ban on conscientious objection to military service. Members of several religious communities complained that "no religion" is allowed during military service (see F18News 18 April 2016 http://www.forum18.org/archive.php?article_id=2169). The latest revision of the Religion Law totally ignores a 2010 OSCE legal review of the then Religion Law, which criticised many of its provisions for violating international human rights standards. The Review called for many changes, including to allow conscientious objection to compulsory military service, as well as an end to the ban on the exercise of freedom of religion and belief without state permission, and the ban on private teaching of beliefs (see F18News 20 December 2010 http://www.forum18.org/archive.php?article_id=1523). (END)

For a personal commentary by a Protestant within Turkmenistan, on the fiction - despite government claims - of religious freedom in the country, and how religious communities and the international community should respond to this, see http://www.forum18.org/Archive.php?article_id=728.

For a personal commentary by another Turkmen Protestant, arguing that "without freedom to meet for worship it is impossible to claim that we have freedom of religion or belief," see http://www.forum18.org/Archive.php?article_id=1128.

More reports on freedom of thought, conscience and belief in Turkmenistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=32>.

For more background information see Forum 18's religious freedom survey of Turkmenistan at http://www.forum18.org/Archive.php?article_id=1676.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY