



Anti-Discrimination Centre Memorial

Submission to the Human Rights Council
for the 44th Session of the Universal Periodic Review
(Fourth cycle, November 2023)

Turkmenistan
Discrimination based on gender and/or SOGI

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3 April 2023

1. Anti-Discrimination Centre (ADC) Memorial¹ focused this submission on the problems of discrimination based on gender/SOGI in Turkmenistan.
2. In the 3rd UPR cycle, Turkmenistan supported a number of general recommendations on improving the situation of women (114.21-24, 114.26, 114.53, 114.70-75), including concrete recommendations on exclusion of professional restrictions on women's work from the Labor Code (114.70 and 114.74).
3. In the 3rd cycle of the UPR, Turkmenistan noted the recommendations on the adoption of anti-discrimination legislation with the inclusion of such grounds as gender and SOGI, as well as noted (116.35–40) and even supported (116.41) recommendations on decriminalisation of homosexuality.

Discrimination of women in employment

4. The authors of this report welcome the exclusion of part 1 of Article 243 from the Labor Code of Turkmenistan (2019) which means abolishment of occupational bans for women and, consequently, repealing the List of professions banned for women.
5. At the same time, the Labor Code still contains absolute bans for pregnant women to work in certain conditions and a ban on manually moving heavy items exceeding the norms established by the government (Article 242. Jobs where the use of women's labor is prohibited). This article seems to be redundant and anachronistic, considering the existing guarantees of the labor rights of pregnant women in other articles of the Code (245-249).
6. In recent years, there has been a real attack on the rights of women in Turkmenistan. Among the restrictions, there are: de-facto introduction of a traditional dress code and persecution for wearing modern-style cloth, persecution for using cosmetics and jewellery, obstacles to legal abortions (abortion is allowed during 5 weeks of pregnancy, instead of the previously allowed 12 weeks), violation of freedom of movement, prohibition to drive a car and even sit in the front seat next to the driver. In this situation, women are deprived of access to employment in the field of transport, for example, to driving trucks or trains, even though the prohibitions on these professions are no longer applied in the Labor Code.
7. Employers frequently refuse to hire women because of potential pregnancy, as well as taking care of children, which, in accordance with traditional practices, lies on women, and not on men. Trends towards illegal dismissals force future mothers to hide their pregnancies in order to keep their jobs. As a result, they perform their work duties along with other workers and cannot take advantage of the special conditions stipulated by law that would reduce the volume of their work or substitute their work with other work that is not contraindicated for pregnant women. Notably, in these situations, the government that declares so much about motherhood does not take any concrete measures to protect women who have decided to become mothers from dangerous practices, even though the state wants them to become mothers.
8. Numerous difficulties connected with official employment for women mean that women often have to get jobs through bribes or acquaintances. Frequently jobs are intended to be performed by several people who are often employed “on paper only.” Therefore, women, who have so much trouble finding a job, are forced to work longer hours to fulfill the whole volume of work on their own. Cases like this were found among workers at public utilities, where up to 70 percent of staff members are women; moreover, almost one-third of the workers were listed on paper only and did not perform any duties.
9. The economic situation in Turkmenistan is certainly unfavorable. Turkmenistan ranks 161 out of 166 countries on the [Heritage Foundation's index of economic freedom](#) and is in the zone of repressed economies. Among other things, this is evidence of the large difference between salaries and prices, the low level of protection for property rights, and the large shadow economy. The precipitous fall in economic indicators is due to a number of factors, including the COVID19 pandemic, which was accompanied by rising prices for food products, the lack of food, and the curtailment and cancellation of social benefits for the use of public utilities. This situation has been complicated by a high unemployment rate (the official data are not published; independent sources report about up to 50%) and large flows of labor migration (both within and out of the country), which the government is attempting to limit. According to the Transparency International's [Corruption Perceptions Index](#), Turkmenistan remains one of the most corrupt countries in the world, occupying 167th place out of 180 countries (2022). In a situation of enormous poverty and inequality,

¹ Anti-Discrimination Centre (ADC) Memorial is a Human Rights NGO defending the rights of minorities and vulnerable groups (such as representatives of ethnic minorities and indigenous peoples, migrants, stateless persons, LGBTI+ and others) and fighting against any form of racism, sexism, homophobia and xenophobia in the former Soviet Union through advocacy, litigation assistance, Human Rights education, research and publications (see more: <https://adcmemorial.org/>).

discriminatory norms impinging upon the employment rights of women reinforce gender inequality based on traditional values. The state of women in Turkmenistan requires the adoption of real measures intended to ensure the rights and freedoms guaranteed by international documents.

10. Patriarchal stereotypes prevail in public consciousness, being manifested in education and employment, as well as in other areas. As a result, women and girls suffering from inequality face severe risk of being trapped in poverty. The difficult economic situation in the country and the deficit of attractive job opportunities for women (attested to by their predominance in communal services (like cleaning) or the agricultural sector, which is characterized by temporary and seasonal jobs), their lower salaries, and the fact that they are more likely proposed to perform low-skilled jobs aggravate the situation of women.

Discrimination against LGBTI+

11. LGBTI+ in Turkmenistan regularly endure serious violations of their rights, homophobia, and discrimination in all areas of life, including employment, education, family life, personal interactions, and commercial and state services. NGOs protecting LGBTI+ rights do not have opportunity to register and work openly.²
12. Despite the numerous recommendations of international bodies, the odious Art.135 of the Criminal Code criminalizing consensual same-sex sexual relations of adult men has not yet been abolished. Men practicing sex with men (MSM) are at risk of 2 years term of imprisonment; under aggravating circumstances or related charges (for example, Article 136 of the Criminal Code), the term increases and may exceed 10 years. Most men once convicted under article 135 are at risk of re-accusation, which qualifies as a relapse.
13. As a rule, the police form so-called "chains" of MSM suspects: About 10-15 people are detained; under torture and pressure, men give the required confessions, which form the basis of the accusation. Sometimes the MSM have a chance to be amnestied after a half of the sentence is served. But it is very likely that soon they are detained and convicted again. They are registered on a special list and are constantly at risk of becoming victims of harassment or blackmail. Conviction under Article 135 of the Criminal Code excludes men from society: education and employment, including stable positions in public institutions, are becoming inaccessible to them.
14. The situation of transgender people in Turkmenistan is extremely difficult. Nothing is said in the law about the possibilities, grounds and procedures for changing the gender marker by transgender people, while the law allows to change the surname and first name "due to the change of sex" for intersex persons. Transgender people have to make surgical corrections abroad, but it is impossible to change their documents. Due to insufficient access to professional realization, they often find themselves involved in prostitution and become victims of police raids.
15. The transphobic police violence and harassment against transgender people are especially cruel and include physical, psychological and sexual violence, threats and harassment. Transgender women are in a more difficult position than men, both because of visibility and the associated public condemnation, and because of gender-based discrimination.
16. During the COVID19 pandemic, it was practically impossible to leave Turkmenistan for a safe country, but even before and after the pandemic, it was / is extremely difficult. Registration of a foreign passport takes 3-3.5 months, there are age restrictions on departure (for example, for men under 30), plane tickets outside the country can be purchased only 2-3 months before the trip only through an agency. Even having a ticket and an exit visa, a person has no guarantees to be able to leave the country. The migration service at the airport regularly stops dozens or even hundreds of people on their way abroad. At the same time, it is very difficult for citizens of Turkmenistan to obtain visas to European or other safer countries. As a result, vulnerable citizens of Turkmenistan have to leave for unsafe Turkey, or the UAE, or and Russia, having high risk of persecution abroad on request of the Turkmenistan authorities, deportation and imprisonment.

2 "LGBTI+ in the region of Central Asia: repressions, discrimination, exclusion", [report](#) of ADC Memorial and regional partners, 2020.

Recommendations

- Adopt a comprehensive anti-discrimination legislation and provide adequate and effective protection against all forms of discrimination, including discrimination based on sexual orientation and gender identity;
- Repeal all restrictions for women in employment; Guarantee effective access to all professions for women: Promote and facilitate education and employment of women in previously restricted or prohibited areas and jobs by wide information campaigns that are aimed in building a positive image of a modern, educated, high-qualified woman, free in her professional choice;
- Cancel all restrictions on women's self-presentation, dress code, social behavior, communication; guarantee the right to freedom of expression and speech;
- Decriminalize consensual same-sex relationships between adult men: Revoke Article 135 of the Criminal Code of Turkmenistan
- Eliminate repressive practices and persecution on the basis of SOGI on the part of law enforcement agencies, including raids, roundups, blackmail, violence, and extortion; recognize the use of torture against LGBTI+ people as unacceptable and declare evidence obtained through violence, threats, and humiliation inadmissible.
- Conduct comprehensive human rights education for judges, prosecutors, police officers with a focus on promoting gender sensitivity and non-discrimination based on sexual orientation, gender identity, gender expression and sex characteristics;