



**Convention on the  
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**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES**  
**UNDER ARTICLE 44 OF THE CONVENTION**

**Initial reports of States parties due in 1995**

**TURKMENISTAN**

[Original: Russian]  
[16 March 2005]

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## **Introduction**

1. The Turkmen Parliament (Majlis) ratified the Convention on the Rights of the Child on 23 September 1994.
2. This report has been prepared pursuant to article 44, paragraph 1 (a), of the Convention on the Rights of the Child in accordance with the General Guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention (CRC/C/58).

This report is based on information received from the Turkmen ministries and departments responsible for child-related issues and for upholding and enforcing children's rights, national statistics, and the results of research projects submitted by voluntary organizations dealing with the issues covered in this report.

In preparing the report, consideration was given to the recommendations of the group of experts of the United Nations Commission on Human Rights headed by the Regional Adviser, Professor Rein Mullerson, who visited Turkmenistan to provide consulting assistance in the preparation of the national reports, and also of the international expert of the United Nations Children's Fund (UNICEF), Mr. Afsan Chowdhury (Bangladesh).

3. The introduction comprises general information about the country, population and economy, the political organization of Turkmen society and the general legal basis for the protection of human rights, including those of children.

The body of the report consists of eight parts and includes information about Turkmenistan's efforts to implement the Convention on the Rights of the Child in the period between ratification and the present, and deals with accomplishments to date, difficulties encountered, and plans for the further realization of the Convention's provisions.

4. The annex lists the principal Turkmen statutes that give effect to the principles contained in the Convention on the Rights of the Child.

## **I. GENERAL INFORMATION ON TURKMENISTAN**

### **A. Country, population, economy, social sphere**

5. Turkmenistan gained its independence as a sovereign State in 1991. In a referendum, the Turkmen people unanimously expressed its will to create an independent national State. On 27 October 1991, the highest legislative body of the country, the Turkmen Supreme Soviet, implementing the will of the people, adopted the Constitutional Act on the independence and form of State government of Turkmenistan. This law proclaimed an independent democratic State - Turkmenistan - within the territory of the Turkmen Soviet Socialist Republic.

6. Turkmenistan is situated in Central Asia, north of the Kopet Dag Mountains, between the Caspian Sea in the west and the Amu Darya River in the east. The territory of Turkmenistan stretches for 1,100 kilometres from east to west and 650 kilometres from north to south, comprising 491,200 square kilometres. Turkmenistan shares a border with Kazakhstan in the north, Uzbekistan in the east, and the Islamic Republic of Iran and Afghanistan in the south.

The country is made up of 5 regions (velayat), the capital city Ashgabat, equal in status to a region, 20 cities, 65 districts (etrap), and communities and villages (aul). Most of the country is desert.

7. At the end of 2003 the population of Turkmenistan was 6,298,800. The average population density is 10.2 per square kilometre. However, if desert areas are excluded, the population density in the inhabited regions is 50 per square kilometre. A total of 46.3 per cent of the permanently resident population lives in urban areas and 53.7 per cent in rural areas. Women constitute 50.3 per cent of the population and men 49.7 per cent.

8. Trends in the national age structure indicate that the demographic situation is favourable and that the population is increasing. Persons younger than working age make up roughly 40 per cent of the population; the working population accounts for 56 per cent, and old-age pensioners for 6 per cent.

According to the sample census conducted in December 2000, the average family in Turkmenistan consists of 5.3 persons. At the same time, 29 per cent of families comprise seven or more persons; the proportion of one-person households is 6 per cent.

9. Meanwhile, in the 1990s, there was a reduction in the natural growth of the population (birth rate) owing to the difficulties of the transitional period in the country's development and the Government's gender policy that enabled women to successfully combine reproductive and social functions within a market system. To a great extent, changes in the birth rate hinge on the social aspect of women's reproductive behaviour, now that the scope of their interests transcends the family circle. Despite a small reduction in the birth rate, the Turkmen population has continued to grow rapidly in recent years. To a great extent, the growth is attributable to health-care reforms and improvements in housing and public health. This has had a positive impact on the death rate and life expectancy indicators. In 2002 the crude death rate was 5.4 per 1,000 of population, whereas in 1995 it was 7.0. Between 1995 and 2002, the maternal death rate was reduced by half. Life expectancy is increasing for men and women alike. In 2002, life expectancy was 71.9 years for women and 65.2 years for men. These indicators have had a positive impact on population trends in Turkmenistan. The proportion of young people is high - 76 per cent of the total population is under 25 - which ensures sustained growth in the workforce and the fertility of the population. In 2003 the population of Turkmenistan grew by 6.1 per cent in relation to the preceding year.

10. More than 40 ethnic groups live in Turkmenistan. Ethnic Turkmen make up 94.7 per cent of the population, Uzbeks, 2 per cent, Russians, 1.8 per cent, and other peoples (Kazakhs, Azerbaijanis, Armenians, Ukrainians, Tatars, Baluchis, etc.), 1.5 per cent.

11. The fact that education is free and generally accessible ensures a high level of education and literacy in Turkmenistan. According to the sample census conducted in 2000, 98.9 per cent of the population aged 15 and over was literate. For every 1,000 persons aged 15 and over, 92 have tertiary education, 9 have uncompleted tertiary education, 166 have specialized secondary education, 477 have general secondary education, 183 have incomplete secondary education, and 48 have primary education.

12. Following independence, Turkmenistan started its development in extremely adverse economic and social conditions. While part of the USSR, the country's economy was geared towards raw materials and based on the extensive exploitation of natural resources. Extractive industries predominated, together with primary processing of agricultural produce, and there was excessive dependence on various imported goods that could have been (and now are being) successfully produced in Turkmenistan.

In 1990-1991, for example, 59 per cent of light industrial goods and 36 per cent of foodstuffs were imported, whereas 90 per cent of the cotton harvest was exported to other regions for processing into finished products. At the same time, the country had to address the very complex problems of preventing a general decline in the standard of living of the population and building up the economy on a fundamentally new basis.

In just 13 years Turkmenistan has made significant headway towards these objectives. The changes that have occurred in Turkmenistan's economy and society have helped to create a strong industrial base, market economy and private sector, and ensured a decent standard of living.

13. The Turkmen economy has displayed consistently high rates of growth. Gross product rose by 23.1 per cent in 2003 compared to the previous year. Expressed in money terms, the value of total gross product in 2003 was 82.2 trillion manat.

The value of total industrial output was 31.6 trillion manat in 2003, an increase of 22 per cent over the previous year. In terms of the rate of increase in industrial output, private firms and municipal enterprises, whose output grew by a factor of 2.4 and 1.6 respectively, continued to lead the field, together with joint Turkmen/foreign ventures (growth of 129 per cent). As regards the distribution of overall growth in core industry, the year's results show that 47 per cent was attributable to the extractive sector and 53 per cent to the processing sector.

14. Turkmenistan has enormous energy reserves. The gas and oil industries are the driving force behind national economic development. Turkmenistan's energy reserves are currently estimated at more than 45 billion tonnes of oil equivalent, or one fifth of the whole world's reserves of natural gas and oil.

Turkmenistan currently extracts more than 10 million tonnes of oil and 70-80 billion cubic metres of gas, of which 55 billion cubic metres are exported.

Turkmenistan is intensively developing its fuel and energy industry. Oil and gas exploration, extraction, refining and transport to overseas markets are proceeding apace, and Turkmenistan has confirmed its status as a strategic provider of hydrocarbons to its traditional markets in the Russian Federation and Ukraine. Natural gas is being supplied to the Islamic Republic of Iran through a pipeline constructed for that purpose.

In 2003, 59.09 billion cubic metres of gas were extracted, representing a 111 per cent increase on the previous year. At the same time, natural gas exports in 2003 were 43.4 billion cubic metres, an increase of 10 per cent. Last year a total of 10,004,300 tonnes of oil were

recovered, 11 per cent more than in 2002. Oil-refinery output grew by 19 per cent to 6,804,000 tonnes. A total of 10,798.6 million kilowatt hours of electricity were generated, or 102 per cent more than in 2002.

Most of the oil recovered goes to refineries in Turkmenistan, boosting output of high-quality oil products. In 2003, 6.8 million tonnes of crude oil were refined into secondary energy carriers and lubricating oils, thus exceeding 2002 refining output by 19 per cent. The biggest growth in output was recorded for petrol (122 per cent), diesel fuel (127 per cent), bitumen (124 per cent) and heating oil (128 per cent); polypropylene output rose by 37 per cent.

15. Textiles are a new sector in Turkmenistan's industrial development. With the construction of new, specialized enterprises and large, integrated textile plants, the large-scale production of various products derived from cotton fibre has been set in place. A total of 180,500 tonnes of cotton fibre were produced in 2003. Exports account for 60 per cent of products manufactured from cotton fibre. The textile industry accounts for 28 per cent of Turkmenistan's output of finished goods.

16. The agrarian sector of the economy has been thoroughly reorganized. All collective and State farms were abolished in mid-1995. The agrarian reform was intended to transfer land to private ownership and long-term rental arrangements and to expand personal plots. Individual *daikhan* (private) farms and peasants' associations comprising several households have become widespread. The Government has taken steps to stimulate agricultural producers in the private sector. Soft loans at 1 per cent interest have been made available and are exempt from value-added tax. Half of peasant farmers' expenditure on technical services is defrayed by the State. Private plots and any structures, livestock and poultry thereon, are tax exempt. These and other measures have led to an upturn in the agricultural sector and an increase in agricultural output. In 2002, there were 596 peasant associations engaged in agricultural production, in addition to 1,815 private farms, more than 600,000 family smallholdings, and more than 7,000 private commodity producers. A total of 83 per cent of all irrigated arable land has been leased out. There are 375,000 and 21,000 tenants in the crop and livestock farming sectors respectively. In 2002 gross agricultural product increased 15.5 per cent relative to the previous year. In 2003 agricultural production increased by 18.5 per cent relative to 2002.

In 2003, the wheat harvest amounted to 2,844 million tonnes, the largest in the history of Turkmenistan. For comparative purposes, 70,000 tonnes of grain were produced in the first year of independence. Survey data indicate that on 1 March 2003 domestic producers catered for 88 per cent of the national consumer market, which to all intents and purposes means that Turkmenistan is self-sufficient in food.

17. Turkmenistan attaches great importance to the establishment and expansion of a railway infrastructure that meets the most advanced and up-to-date standards. The current total length of the Turkmen rail network is 2,516 kilometres. Just recently two new railways have been built and preparations are under way for the laying of a third, jointly increasing the length of the network by nearly 500 kilometres.

The Tedzhen-Serakhs-Meshkhed main line was constructed and put into service in 1997. The length of the line is 308 kilometres, of which 132 kilometres are in Turkmenistan.



With the new line in operation, Turkmenistan is now a key link in the Trans-Asian Railway Line, an integrated international transport system that recreates in steel the ancient Silk Road along the route Istanbul-Tehran-Meshkhed-Serakhs-Turkmenabad-Tashkent-Almaty-Druzhba-Urumchi-Beijing, thus linking Turkmenistan with all the countries of Europe and Asia and promoting its all-round social and economic development. At over 10,800 km, this land transport corridor is the second longest railway line in the world.

The volume of sea and river transport is increasing. The Turkmen seaport Turkmenbashi has been upgraded. As a result, the port terminals are able to handle ships of all types and classes; capacity has doubled and is continuing to increase. The growth in freight traffic has been fostered not least by the new vessels of the national fleet. Turkmen freighters, tankers, and ferries are regularly chartered by foreign companies to transport freight to the ports of Caspian Sea States.

In all, 501.7 million tonnes of freight were carried by all modes of transport in 2003, or 3 per cent more than in 2002. A total of 821.2 million passenger journeys were made, an increase of 4 per cent.

18. In 2003, Turkmenistan's foreign trade turnover was 1.6 times greater than in 2002, amounting to US\$ 3.4 billion. Export volumes doubled to a value of US\$ 1,995 million, and imports were valued at US\$ 1,446 million (an increase of 28 per cent). The foreign trade surplus was US\$ 549 million. Over the past four to five years, shipments of natural gas have increased by a factor of 3.9, crude oil by a factor of 1.6, oil products by a factor of 1.3, textiles by a factor of 1.3, and the supply of electricity has doubled. The respective proportions of various commodities in the pattern of trade are as follows: natural gas - 49 per cent, petroleum products - 22 per cent, oil - 10 per cent, and textiles - 6 per cent.

The volume of goods entering the country has increased by a factor of 1.3 and is valued at US\$ 1,446 million.

19. Turkmenistan is a welfare State. Domestic policies aim to provide the people with a decent standard of living, security, rights and liberties, and to ensure that social life is based on solid legal foundations. Throughout the transitional period, the President and Government have guaranteed the welfare of the population. Up to the mid-1990s, staple foods were sold at reduced prices, the difference between the sale price and the actual cost being covered by the State budget. Turkmenistan has provided its citizens with free gas, electricity, water, table salt, medical care and educational opportunities since 1993. Symbolic payments are required for housing, telephone service, and public transport, and virtually every year salaries, student grants, pensions and welfare benefits are increased. In 2003, for example, the volume of such disbursements doubled. By a decision of the People's Council (Khalk Maslakhaty) of Turkmenistan dated 15 August 2003, free provision of natural gas, electricity, drinking water and salt has been extended to 2020.

Working people in Turkmenistan are entitled to 24 calendar days of paid leave a year. Maternity benefits are paid to women through their place of work. Citizens are given paid leave from work to attend weddings and funerals. Orphans are fully maintained by the State. A large-scale programme of housing construction is under way in Turkmenistan. Individuals may acquire ownership of very comfortable homes of superior design on easy terms (15-year loans); a

portion of the cost of acquiring a home is borne by the future homeowner's employer. The State provides welfare benefits to large families and low-income families, the disabled, and single elderly people. The involvement of the private sector in the provision of social services, health care, education and culture is being expanded, and the scale and variety of services available to the public in exchange for payment has increased.

## **B. Form of government**

20. Following independence, fundamental changes have occurred in the political, economic, and social life of Turkmenistan. New machinery of State has been created. The political structure of the Turkmen State is in accordance with the model outlined in the Constitution of Turkmenistan, adopted on 18 May 1992. Turkmenistan is a democratic, law-governed, secular State whose form of government is a presidential republic. State power in Turkmenistan is based on the following principles: sovereignty of the people, from whom all power emanates and in whom all power resides; recognition of the human being as the paramount value of society and the State; responsibility of the State for the people and for the protection of life, honour, dignity, freedom, personal inviolability, and the natural and inalienable rights of citizens; separation of State power into legislative, executive, and judicial branches; and demarcation of the functions and powers of the central authorities and local government bodies.

21. Representative power is embodied in a People's Council (Khalk Maslakhaty), the paramount standing representative organ of popular power, and by a Parliament (Majlis), the legislative organ of power in Turkmenistan. Local representative bodies are the regional, district and municipal people's councils (khalk maslakhaty), and local councils (gengesh) at the village (aul) and community level.

22. The People's Council is a national forum with 2,507 members representing all social strata. Its members include the President of Turkmenistan, the elected people's representatives (khalk vekilleri), parliamentary deputies, members of the Government (Cabinet of Ministers), directors of voluntary associations, local chief administrative officers, and workforce representatives delegated by national enterprises and institutions. The People's Council wields the powers of the highest State authority and administration; it deliberates and takes decisions on the most important questions of national life, for example adoption of the Constitution, approval of programmes setting out the main directions of national political, economic, and social development, scheduling of presidential elections and elections to national representative bodies, holding of referendums and ratification or denunciation of international treaties. The People's Council is also competent to examine other questions as stipulated by the Constitution and other laws. The work of the People's Council is overseen by a president elected from among its members. The activities of the People's Council are regulated by the People's Council (Establishment) Act of 15 August 2003, the People's Representatives (Election) Act of 25 November 1997 (revised 14 December 2002), and the People's Representatives (Status) Act of 25 November 1997.

23. The Parliament (Majlis) of Turkmenistan is a legislative body that adopts laws, interprets them, and oversees their enforcement. The Parliament comprises 50 deputies whom the Turkmen people elect by universal, equal and direct suffrage for a term of five years. Voting in elections is by secret ballot. The Parliament is responsible for approving the national budget of Turkmenistan and reporting on its execution, reviewing the agenda of the Cabinet of Ministers,

and appointing presidential nominees to the positions of Chief Justice of the Supreme Court (kazyeta), Procurator-General, Minister of Internal Affairs and Minister of Justice. The Parliament also deals with other matters that the Constitution and legislation assign to its sphere of competence. The Parliament is presided over by a speaker elected from among the deputies. The Parliament's work is regulated by the Parliament Act of 16 March 1995 (revised on 29 November 2003), the Parliamentary Deputies (Election) Act of 13 May 1991 and the Parliamentary Deputies (Status) Act of 16 March 1995.

24. Local people's councils (khalk maslakhaty) are the representative bodies in the regions, districts and cities possessing regional or district status. The system of local government comprises local councils (gengesh) and the local public authorities. Local councils are representative bodies at the village and community level, whose members are elected by the population of the area in question. Local councils resolve major issues arising in the territory under their jurisdiction. They also approve the local budget and report on its execution, set local taxes and levies, and from their membership elect a chairman (archin), who directs the work of the local council and is accountable to it. The local council is also responsible for other questions connected with the economic, social, and cultural development of the territory under its jurisdiction. Procedures relating to the formation, powers and activities of local government bodies are stipulated by the Local Councils Act of 25 November 1997 (revised on 15 January 2003) and the Local Councillors (Election) Act of 25 November 1997 (revised on 14 December 2002).

25. The head of State and the executive is the President of Turkmenistan. He is directly elected by the people for a term of five years. The President directs domestic and foreign policy, gives effect to the Constitution and laws of the country, appoints and presides over the Cabinet of Ministers (Government), appoints and dismisses local chief executive officers (khyakim), is the commander-in-chief of the armed forces of Turkmenistan, decides upon questions of naturalization, grants pardons and amnesties, issues decrees, decisions and orders whose effect is binding throughout the country, and deals with other matters that the Constitution and laws of Turkmenistan assign to his sphere of competence. Article 59 of the Constitution lays down the conditions and procedure for the removal from office of the President before the expiry of his term.

26. The Cabinet of Ministers - the Government of Turkmenistan - is the executive and administrative body responsible for the normative regulation and control of all executive and administrative bodies in Turkmenistan. The work of the Cabinet of Ministers is directed by the President of Turkmenistan.

The Cabinet of Ministers comprises the deputy chairmen of the Government and ministers, who are appointed and dismissed by the President. The Cabinet of Ministers is responsible for managing the economic and social development of the country; organizing the management of industrial, agricultural, and construction enterprises, transport, communications, and information, and other national enterprises and organizations; ensuring the realization and protection of citizens' constitutional rights and liberties; maintaining law and order; strengthening discipline and organization; organizing the execution of the State budget;

conducting State social policy; implementing foreign-trade policy; and exercising other powers assigned to it by the Constitution and laws of Turkmenistan. The Government's work is organized and regulated by the Cabinet of Ministers Act of 24 November 1995. The Cabinet of Ministers also has the power to issue binding decisions.

27. Executive power in the regions, cities and districts is exercised by local chief executive officers (*khyakim*), the representatives of the head of State at local level. Local chief executive officers are appointed and dismissed by the President, to whom they are accountable. The local chief executive officers are responsible for managing the economic and social development of the territory within their jurisdiction, coordinating the activities of business enterprises, organizing the implementation of national programmes, adopting measures for the sound use and protection of land, mineral resources, bodies of water, forests and other natural resources, implementing measures to ensure the welfare of the population, administering educational, health-care, cultural and sports institutions, and resolving other issues assigned to their sphere of competence by the Constitution and laws of Turkmenistan. Within the scope of their powers, local chief executives may issue orders whose effect is binding in the territory under their jurisdiction. The work of chief executive officers is regulated by the Constitution and the Local Chief Executive Officers Act of 24 November 1995.

28. Executive power in the area under the jurisdiction of the local council (*gengeshlik*) is exercised by the council chairman (*archin*). He is elected from among the members of the local council, directs the council's work and is accountable to it. The chairman sees to it that the decisions of the council and higher-ranking administrative bodies are enforced, drafts and submits for the council's consideration the main outlines of local economic, social, and cultural development and the local budget, organizes the execution of the budget, manages the development of industrial, agricultural, and social infrastructure in the area under the council's jurisdiction, ensures the protection of citizens' rights and interests, and resolves other routine issues relevant to the territory under the council's jurisdiction. The chairman's powers are set forth in the Constitution and the Local Councils Act of 25 November 1997 (revised on 15 January 2003).

29. Judicial power in Turkmenistan is exercised by the courts (*kazyety*). Judges are independent, subject only to the law, and are guided by their inner conviction. Interference in the work of judges from any quarter is prohibited and is punishable by law. Judicial inviolability is guaranteed by law. Judges of all courts in Turkmenistan are appointed by the President for a term of five years, and may be dismissed solely on the grounds specified by law. The Chief Justice of the Supreme Court of Turkmenistan is appointed and dismissed by the President, with the consent of Parliament.

30. Civil society institutions play an important role in the Turkmen political system. Non-governmental organizations, voluntary associations, and professional and creative unions are active in mapping out the economic, social and cultural policy of State bodies. The most important voluntary associations in Turkmenistan (the Democratic Party, the Council of Elders, the Gurbansoltan-eje Women's Union, the Makhtumkuli Youth Union, the Atamurat Niyazov Council of Veterans, trade unions, and other non-governmental organizations) are represented in all national elective bodies on the basis of the law. Pursuant to article 46 of the Constitution and article 2 of the People's Council (Establishment) Act, the leaders of parties and other voluntary organizations are voting members of the People's Council. Members of these voluntary

associations are members of the Turkmen Parliament and local government bodies, which allows them to participate directly in formulating social, economic, and cultural programmes to develop the country as a whole and its individual regions.

## **II. GENERAL MEASURES OF IMPLEMENTATION**

**(arts. 4, 42 and 44 (6))**

31. Turkmenistan has ratified the Convention on the Rights of the Child (“the Convention”) without any reservations as to the application of its provisions.

32. “From time immemorial Turkmens have treated their children with special tenderness. No mother or father would exchange all the riches of the world for one hair of their child’s head.” These words of the Turkmen President encapsulate Turkmen State policy towards children, the most important elements of which are comprehensive care for children, the establishment of conditions necessary for their full and healthy development, the formation of highly educated, uninhibited individuals and active, public-spirited citizens who are able to multiply the material and spiritual wealth of their people and contribute to the strengthening of international peace and stability. It is the constitutional duty of parents or persons in loco parentis to raise their children, attend to their health and development, instruct them, prepare them for work, and to instil in them culture and respect for laws and national traditions (Turkmen Constitution, art. 25).

33. In accordance with generally accepted democratic tradition, the Constitution and laws of Turkmenistan establish equal rights and freedoms for all citizens irrespective of age, ethnicity, descent, place of residence, language or other considerations (Constitution, art. 17). The universality of the rights and freedoms of citizens, including children, is statutorily enshrined in the Rights of the Child (Guarantees) Act of 5 July 2002, article 3 of which stipulates that all children living in Turkmenistan have equal rights irrespective of their ethnic background, sex, language, faith, education, place of residence, circumstances of birth or state of health.

34. The civil rights and freedoms established by the Constitution and laws of Turkmenistan conform to the relevant principles and norms of international law proclaimed by the international community. The international obligations undertaken by neutral Turkmenistan in the human rights sphere proclaim that Turkmenistan “shall guarantee to every person the rights and freedoms enshrined in the Constitution, laws and generally recognized norms of international law, without distinctions of any kind ...” (Declaration on the international human rights commitments of neutral Turkmenistan of 27 December 1995). Holding fast to these commitments, Turkmenistan has incorporated the provisions of international instruments and treaties in the sphere of civil rights and freedoms, including the basic provisions of the Convention on the Rights of the Child, into its national law.

35. As a democratic State governed by the rule of law, Turkmenistan recognizes the primacy of generally recognized norms of international law (Constitution, art. 6). The rights specified in the Convention are recognized and enshrined in the Constitution and laws of Turkmenistan, which direct the work of administrative, judicial and other bodies. There is no conflict between

the provisions of national legislation and the Convention, insofar as the norms of the latter have been incorporated into the national legal order. Accordingly, Turkmen judicial statistics contain no specific information about judicial decisions based on the provisions of the Convention or of any other international instruments.

36. There are extensive arrangements in Turkmen law for upholding and protecting the rights of children, including the rights proclaimed by the Convention. All branches of the national legal system whose norms have an actual or potential effect on children's rights contain provisions guaranteeing the legal protection of children. Article 23 of the Rights of the Child (Guarantees) Act stipulates: "The State shall protect the rights and legitimate interests of children." This protection "shall be afforded, in the family, by the parents (or legal representatives), and in educational institutions and specialized medical rehabilitative institutions, by the administration of the institution, the central and local authorities, and relevant voluntary organizations". The following illustrates how national legislation complies with the norms of the Convention. Article 24 of the Convention proclaims the child's right to medical care, specifying that "States Parties shall strive to ensure that no child is deprived of his or her right of access to such health-care services". In Turkmenistan, the State guarantees free medical care to children (Constitution, art. 33; Rights of the Child (Guarantees) Act, art. 26). Minors' rights to health care, according to the Health Protection Act of 14 December 2002, are "legally protected and guaranteed through the organization and implementation of a set of preventive measures (ongoing medical screening of children at home, in preschool institutions, schools and medical rehabilitative institutions, vaccinations, preventive check-ups and aftercare); the provision of competent and specialized medical treatment at appropriate hospitals and recuperation at sanatoriums, and selection for admission to day nurseries and recreational facilities; timely vaccination against measles, polio and other diseases; measures to control drug addiction, smoking, alcoholism, AIDS, and a number of other health-related measures aimed at children".

According to article 28 of the Convention, State Parties shall "recognize the right of the child to education", "make primary education compulsory and available free to all", and "encourage the development of different forms of secondary education". Education in Turkmenistan is posited on the basis that "every citizen shall have the right to education. General secondary education is compulsory, and everyone has the right to be educated free of charge in State schools" (Constitution, art. 35).

The core principles of education in Turkmenistan are the general accessibility to all citizens of all forms and types of educational services; the equal right of every person to realize his or her full potential; and the principle that education at State educational institutions (including higher educational establishments) shall be free of cost (Education Act of 1 October 1993, art. 3). In addition to the examples cited, similar legal protection is afforded to children in Turkmenistan in connection with the full spectrum of their rights and freedoms.

37. The national strategy for upholding the rights and freedoms of children and guaranteeing their successful physical, educational, vocational and other development is set out in stage-by-stage programme documents approved by the paramount representative organ of popular power, the People's Council. At the turn of the century, the most recent development guidelines were set out in the national programme entitled "Strategy for the economic, political, and cultural development of Turkmenistan for the period to 2020".

State programmes cover all aspects of children's lives and development, including those reflected in the Convention. In addition, Turkmenistan is implementing special multipronged programmes that concentrate on various aspects of children's lives. In 1995, for example, the State "Health" programme was adopted, which subsequently became the basis for public health reform. As a result of this programme, an integrated maternal and child welfare programme has been set up and put into operation; it provides for compulsory screening of women during pregnancy, childbirth and the puerperal period, and of children in the first five years of life. A total of 92,800 newborns were monitored at health units in 2002. In the period 2000-2004 the Turkmen Government implemented with the UNICEF office in Turkmenistan a joint plan of action focusing on child health in a number of areas such as health care, education, water supply and sanitation. State programmes such as "Education", "New Village" and others provide for the further extension and construction of preschool facilities, schools, sports, educational and cultural facilities and the provision of up-to-date equipment to medical institutions. In 2004 alone, state-of-the-art diagnostic centres came into service in two regional capitals and in Ashgabat. These centres make use of the latest advances in modern medicine to diagnose and treat illnesses.

38. Child-centred policies pursued by ministries, departments and local executive authorities are coordinated by the Cabinet of Ministers (Government) headed by the President of Turkmenistan. Various mass voluntary organizations such as the Makhtumkuli Youth Union and the Gurbansoltan-eje Women's Union are involved in the implementation of programmes in this sphere. The Department for Youth Affairs in the Office of the President promotes more effective cooperation between State bodies and voluntary organizations with regard to policies for children. The National Statistical and Information Institute "Turkmenmillikhasabat" supports the development of a national policy on children by amassing statistical data, carrying out sociological studies and making the forecasts that are used in setting the Cabinet of Ministers' agenda. The Turkmen Parliament monitors compliance with the law (Constitution, art. 66).

Every year the People's Council, the paramount representative organ of popular power, hears a report by the President about the state of the nation and the most important issues of domestic and foreign policy (People's Council Act, art. 16). The President's report contains information about government policy to uphold and protect the rights of Turkmen citizens, including children.

39. The care of children and attention to their health and physical and intellectual development are among the topics dealt with by national voluntary organizations. Every year, Turkmen trade unions and State structures organize summer holidays for children at camps and sanatoriums. Together with the Ministry of Culture and Information, the Turkmen Youth Union plays an active role in organizing arts clubs for young people and holding competitions, quizzes and exhibitions for children and young people. The Turkmen Women's Union organizes a host of sewing, carpet-making, national handicrafts and homemaking clubs. National voluntary organizations cooperate with the offices of international organizations such as UNICEF, the World Health Organization (WHO) and the World Bank to pursue policies for children. They carry out extensive educational work with children, for example on issues relating to human rights and freedoms, including those of children and young people, healthy lifestyles, social skills, and the pernicious effects of alcohol abuse and drug addiction.

The mass media are widely used for outreach purposes, as are the discussion of topical issues affecting children and young people at meetings with veterans, politicians and public figures and in “round-table” debates.

40. Arrangements to uphold and coordinate the economic, social and cultural rights of children are financed from the national budget and development funds. For example, a State Health-Care Development Fund has been established in Turkmenistan to implement State policy on public health, and primarily the health of children. The Fund draws its revenue from individual contributions paid in connection with voluntary medical insurance, profits from supplementary fee-for-service medical procedures, and sponsorship.

The Budget System Act of 18 June 1996 stipulates that the central and local budgets shall be used, among other things, to finance health care, education, science, culture, sports and social welfare, including the welfare of children (arts. 7 and 8). Money earmarked for the social sphere accounts for 68.5 per cent of the total budget adopted by Parliament for 2005. The central budget provides for the allocation of funds for national programmes, which prioritize policies designed to improve the lot of children. Local executives and local authorities form their budgets independently, within the framework of their own resources and any grants and subsidies available to them. Local budget priorities are health care, education, culture and sports. Because these areas are most closely connected with the life and development of children and young people, budget appropriations for these items tend to increase each year. The Cabinet of Ministers (Government) coordinates budgetary allocations for the regions, taking care to ensure that no region is disproportionately endowed (Budget System Act, art. 12). Budget spending in the social sphere increases every year, through growth in personal incomes and regular increases in pay, allowances, pensions and benefits. All these disbursements increased by a factor of 1.5 in 2005.

41. The implementation of the Convention on the Rights of the Child, including as regards children’s social, economic and cultural rights, is facilitated by cooperation between the Turkmen Government and international organizations. Joint programmes are being undertaken with organizations such as the United Nations Development Programme (UNDP), UNICEF, the United Nations Population Fund (UNFPA), WHO, the Organization for Security and Cooperation in Europe (OSCE) and the diplomatic missions of the United States of America, the United Kingdom, France, Germany, and the United Arab Emirates accredited in Turkmenistan. Broader access by young people to better quality education is ensured by, for example, encouraging them to attend higher educational establishments overseas, with assistance from international organizations. More than 1,000 boys and girls attended foreign educational establishments in 2003. With help from UNICEF, WHO and other international agencies and organizations, Turkmenistan is successfully implementing the national “Preventive Vaccination” programme, and UNFPA is providing organizational and financial help in setting up reproductive health units for girls and teenagers in Ashgabat and throughout the country. The aim of the “Mothers and Children” programme, jointly administered with UNICEF, is to prevent iodine- and iron-deficiency disorders. Accordingly, among preventive measures, priority is accorded to provision of iodized salt and iron-enriched flour. In 1996 the Turkmen President adopted a decision on the iodization of salt and the enrichment of flour with iron, pursuant to which all the boiled salt produced in Turkmenistan has been iodized since 2003. As the



first country in the Commonwealth of Independent States (CIS) and Central Asia and the fourth in the world to offer universally iodized salt, Turkmenistan was issued with an international certificate on 1 November 2004 on behalf of UNICEF, WHO and the International Council for Control of Iodine Deficiency Disorders (ICCIDD).

Other programmes are also being implemented with assistance from international agencies and organizations. In 2004 the Turkmen Government and United Nations offices in Turkmenistan signed the United Nations Development Assistance Framework (UNDAF) for the period 2005-2009, which serves as the basis for United Nations assistance in the country's development. This large-scale programme includes United Nations assistance for the development of economic and social policy, core social services and the environment. All these areas of cooperation are connected with the realization of children's rights.

42. The Turkmen Government devotes considerable attention to disseminating and incorporating the principles and provisions of international human rights law, including the Convention on the Rights of the Child and other instruments, into the everyday life of the general public and the practice of State bodies. In cooperation with the offices of international organizations and foreign embassies accredited to Turkmenistan, long-term humanitarian programmes are acquainting the public with core international instruments regarding human rights and freedoms, including the rights of the child.

The texts of the Convention on the Rights of the Child and other relevant international instruments have been published in Turkmen for a mass readership, and the provisions of the Convention and other instruments are regularly explained in the mass media. Special radio and television programmes deal with the topic, and newspapers and magazines publish articles and reviews.

43. The Ministry of Foreign Affairs, the Ministry of Education, the Supreme Council for Science and Technology, the National Statistics and Information Institute, higher educational establishments, the National Institute for Democracy and Human Rights reporting to the President, national voluntary organizations, and a number of other bodies publish texts and compilations of international instruments and national laws on the subject of civil rights and freedoms.

The Turkmen National Institute for Democracy and Human Rights reporting to the President has published 17 such compilations, including "International Human Rights Instruments", which contains the core international human rights instruments ratified by Turkmenistan; "Mothers and Children", which incorporates relevant international and national legal instruments; compilations of international instruments and domestic statutes entitled "Human rights and justice in Turkmenistan" and "Protection of individual rights and freedoms in Turkmenistan", and many others, practically all of which contain the text of the Convention on the Rights of the Child.

44. Practical steps towards implementing the Convention on the Rights of the Child are being encouraged through an education programme for public officials, law enforcement officers, customs and border personnel and local authority and administrative workers that focuses on the upholding and protection of civil rights, including the rights of the child.

Special courses on international standards and national law in the human rights sphere are organized on a continuous basis in cooperation with the offices of OSCE, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). In the period 24-28 November 2003, for example, five-day courses were held with input from the OSCE office in Turkmenistan, national experts and foreign specialists. Those attending included local administrative workers, staff from the Ministry of Internal Affairs and the Ministry of National Security, procuratorial and court officials, and border and customs personnel. At the end of August 2004 the National Institute for Democracy and Human Rights reporting to the President, in conjunction with UNHCR, held seminars in all regions of the country to discuss national law and international standards in the sphere of the rights of the child and the rights of refugee children.

Turkmenistan sponsors international symposiums, conferences and seminars focusing on individuals, their rights, and issues relating to the protection of children's rights.

The forums described below are examples.

An interparliamentary conference on the theme of the implementation of the Convention on the Rights of the Child in Central Asia and Kazakhstan was held in Ashgabat from 20 to 22 February 1997 on the initiative of the Turkmen President, the Turkmen Parliament, UNICEF and the CIS Interparliamentary Assembly. The conference was attended by parliamentarians from Kazakhstan, Uzbekistan, Tajikistan and Kyrgyzstan and representatives of international and voluntary organizations. Information was exchanged on a wide range of regional issues affecting children, with a view to formulating an economically viable and realistic joint strategy to implement the Convention on the Rights of the Child in Central Asian States and Kazakhstan. The conference witnessed the signing of the joint Ashgabat Declaration on the rights of the child and priority actions to uphold these rights in Central Asia and Kazakhstan. This Declaration is a guide for the further development of national legislation on the rights of the child and for measures to ensure the proper development and protection of children.

An international conference on international and national legal aspects of the protection of women's and children's rights was held in Ashgabat from 22 to 23 April 2004. It was attended by representatives of Turkmen institutions and society, international organizations, teachers and academics from universities in various countries, diplomats, law enforcement officials and students. The participants included experts from 21 countries, including the United States of America, the United Kingdom, Germany and the Russian Federation.

On 30 August 2004, the Ministry of Foreign Affairs, the Ministry of Culture and Television and Radio Broadcasting and the UNICEF office in Turkmenistan held a seminar devoted to the implementation of the Convention on the Rights of the Child in the Turkmen mass media. Over four days representatives of Turkmen newspapers, magazines, radio and television discussed with foreign experts ways of improving media coverage of topics relevant to children.

These and similar forums are an important component of the measures that Turkmenistan is taking to uphold and protect the rights of children and give practical effect to the core provisions of the Convention.

45. Turkmenistan is pursuing an extensive programme of education in civil rights and freedoms and protection of the rights and freedoms of children. A course on the basic principles of the State and the law, which includes a module on the rights of the child and relevant national and international norms in this area, has been introduced into the secondary school curriculum. At higher educational institutions in Turkmenistan, students can study Turkmen law and international instruments on the rights of the child; special efforts are being made to educate young people in a spirit of moral purity, full legal awareness and adherence to universal human values.

46. On 12 June 1997 the Turkmen Parliament ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The core provisions of these international instruments were incorporated into the Refugees Act adopted on 12 June 1997.

Pursuant to article 2, paragraph 2, of the Convention, Turkmenistan has taken specific steps in the political, economic and social domains to protect the rights of refugees, including refugee children, who arrived in the country between 1991 and 1997. During that period, roughly 20,000 refugees entered Turkmenistan from Tajikistan, Afghanistan, Armenia and other countries. The Turkmen Government assisted them financially, settled them and provided them with all they needed to survive and instruction for their children. Refugees who expressed a desire to farm the land were allocated free plots, and in conjunction with the UNHCR office in Turkmenistan the State provided them with farming tools and seed stock. Following normalization of the situation in Tajikistan, more than 7,000 refugees and their children who wished to return home were provided with transport and the opportunity to move their belongings. The Government has made strenuous efforts to help refugees from Afghanistan and Armenia return to their respective homelands. Approximately 1,000 refugees, including children, have stayed on permanently in Turkmenistan, establishing homes and enjoying all the rights of Turkmen citizens.

47. This report has been prepared in public, with direct input from the Ministry of Economics and Finance, the Ministry for Social Security, the Ministry of Education, the Ministry of Public Health, the Ministry of Internal Affairs and others. The report was compiled using material provided by research institutes, national statistical data, and information from national voluntary organizations. The international expert of the United Nations Children's Fund (UNICEF), Mr. Afsan Chowdhury, participated in three discussions of the draft report at meetings attended by academics from the Turkmen National Institute for Democracy and Human Rights reporting to the President, and at a special seminar attended by representatives of ministries, departments and voluntary organizations that prepared the draft report.

It is planned to publish the report in order to make it widely available to the public.

### **III. DEFINITION OF THE CHILD**

#### **(art. 1)**

48. Under Turkmen law, a child is a person under 18 years of age (Civil Code, arts. 20 and 25; Marriage and Family Code, art. 167; Code of Labour Laws, arts. 179, 181 and 183). A person is considered a child until he or she attains the age of 18 years, unless specified otherwise by Turkmen law (Rights of the Child (Guarantees) Act, art. 1). This corresponds to the definition of the child in the Convention.

49. Turkmen domestic legislation does not specify the age at which children may seek legal or medical advice without the consent of their parents. Pursuant to article 26, paragraph 3, of the Health Protection Act of 14 December 2002, “consent to medical intervention in the case of persons who have not attained adulthood shall be given by their legal representatives ...”. The Act lays down special procedures in cases where there are no legal representatives and it is necessary to provide a person with emergency medical treatment.

50. General secondary education is compulsory in Turkmenistan. Article 13 of the Education Act stipulates: “In exceptional circumstances, the board of teachers at a school may, with the consent of the parents or persons in loco parentis, reduce the time that a child spends in a general-education school.” Compulsory education may be interrupted only if a child is gravely ill, changes his or her place of residence, or for some other reason. In all such cases, however, children keep the right to complete their secondary education.

Thus, pursuant to article 18 of the Regulations on State secondary schools ratified by the President on 11 August 1998, “pupils may be excused school-leaving examinations on account of illness [...]. Pupils who fall ill during the period of school-leaving examinations shall sit the remaining examinations after they have recovered [...]”.

51. Children in Turkmenistan are entitled to work as determined by their age, health, education and vocational training. The child’s right to work arises at the age of 16. A child may be allowed to work from the age of 15 with the written consent of one of his or her parents (or his or her legal representative); the work must not interfere with the child’s continuing attendance at school (Young People’s Right to Work (Guarantees) Act of 1 February 2005, art. 1). Employees aged under 18 have the same rights in employment relations as adults, but enjoy special privileges in the areas of occupational safety, working hours, leave and certain other conditions of employment (Code of Labour Laws, arts. 178 and 180). No child may be employed in work hazardous to health or that might endanger his or her physical, mental or moral development. Specifically, children are not permitted to engage in work connected with the manufacture or sale of tobacco products or alcoholic beverages. The State protects children against all forms of exploitation in the workplace through a range of legal, economic, social, medical and pastoral measures. It is prohibited for persons aged under 18 to work overtime, at weekends or on holidays. The list of arduous, unhealthy or dangerous types of work for which it is forbidden to employ persons aged under 18, and the restrictions on the weight of objects such persons may carry or move, are defined by the Cabinet of Ministers (Government) (Code of Labour Laws, arts. 180 and 181; Rights of the Child (Guarantees) Act, arts. 19 and 27; Young People’s Right to Work (Guarantees) Act, art. 2). Article 3 of the Young People’s Right to Work (Guarantees) Act stipulates that parents, tutors and guardians must not use a child to

perform work that approximates to a permanent job, especially work that separates a child from his or her studies or that entails a violation of the child's rights and interests as enshrined in Turkmen laws and regulations and the generally recognized norms of international law.

In accordance with the President's Decree extending the employment rights of citizens who have attained the age of 16, with effect from 1 April 2002 all ministries and departments and regional, city and district administrations must elaborate special programmes to provide employment for persons who have attained the age of 16, in order to realize their right to work. Youth employment programmes help young people to find their feet in the workforce, acquire knowledge of a trade or sharpen their vocational skills.

52. The age of marriage for men and women is 16 years. For Turkmen citizens who marry foreigners and stateless persons, the age of marriage is set at 18 years (Marriage and Family Code, art. 16). Forcing people into marriage is a statutory offence. Abducting a woman for the purpose of entering into de facto marital relations is punishable as a crime (Criminal Code, art. 127).

It is a criminal offence to sexually molest a person known to be aged under 16 or to have sexual intercourse with a person under 16 (Criminal Code, arts. 143 and 144).

53. Eligible males are called up for military service upon reaching the age of 18 years. A male citizen who desires to join the national armed forces and is deemed fit to perform military service may be called up at the age of 17, provided he applies in person (Conscription and Military Service Act of 25 March 2002, art. 15).

54. Persons who attained the age of 16 years before the commission of an offence are criminally liable under Turkmen law. Persons who committed offences when aged between 14 and 16 are criminally liable for particularly serious crimes, the list of which is statutorily prescribed (Criminal Code, art. 21).

Juvenile offenders may be punished by fines, work of a punitive nature, deprivation of liberty, or the imposition of compulsory re-education measures (Criminal Code, arts. 83 and 84).

Young first-time offenders who have committed a crime of lesser or intermediate gravity may be excused the penalty and sent to a special young offenders' institution or medical rehabilitative facility if the court considers that they can be reformed without recourse to punishment.

55. The death penalty as a form of criminal punishment has been abolished in Turkmenistan (Constitution, art. 20).

A minor offender may not be sentenced to deprivation of liberty for more than 10 years, or, in the case of particularly serious crimes, for more than 15 years (Criminal Code, art. 87).

56. Turkmen law recognizes the testimony of minors as a source of evidence in civil and criminal cases.

Victims or witnesses aged under 14 or, if the court so decides, those aged between 14 and 16, may not be questioned in court without the presence of a teacher. If necessary, the minor's parents or other legal representatives must also be called (Code of Criminal Procedure, arts. 159, 290 and 293). Questioning of a minor facing charges or a minor suspect must be conducted in the presence of his or her counsel or legal representative and of a teacher if necessary, and is permitted only during the day (Code of Criminal Procedure, arts. 53, 133 and 198).

Children who, owing to their tender years, are unable properly to comprehend the facts of importance to the case or to provide correct testimony thereon, may not be questioned (Code of Criminal Procedure, art. 67; Code of Civil Procedure, art. 41).

57. Children are entitled to apply in their own right to agencies of tutorship and guardianship to defend their violated rights and legitimate interests (Marriage and Family Code, art. 63).

Courts have discretion to decide whether to admit a child to proceedings that concern it. Thus, when dissolving a marriage and resolving disputes about which child shall live with which parent, the views of the child are normally taken into account (Marriage and Family Code, art. 36).

58. In cases of adoption the consent of the adoptive child must be sought if he or she has attained the age of 10 years (Marriage and Family Code, art. 121).

An adoptive child who has attained the age of 10 years may not be given a patronymic or surname or have its first name changed without its consent (Marriage and Family Code, art. 123).

59. Under article 20 of the Turkmen Civil Code, the legal capacity of individuals to have civil rights and obligations begins at birth and ends at death. Civil dispositive capacity (i.e. the capacity, by one's actions, to acquire and exercise civil-law rights, to create civil-law responsibilities for oneself and to perform them) arises in full measure with the attainment of the age of majority. In the event of marriage under the age of 18, a person who has not attained the age of 18 years acquires dispositive capacity in full measure at the time of marriage. Minors under the age of 7 years (children of tender years) lack dispositive capacity (Civil Code, art. 23).

Children aged between 7 and 18 years have limited dispositive capacity. For a transaction performed by a person with limited dispositive capacity to be valid, the consent of his or her legal representative is required, except in cases where the person with limited dispositive capacity profits by the transaction (Civil Code, art. 25).

Children aged between 15 and 18 have the right to receive and dispose of income or bursaries independently, to enter into small ordinary transactions and to exercise their copyright or inventor's rights at their own discretion (Marriage and Family Code, art. 167).

60. The constitutional principle of religious freedom and freedom of confession applies to all Turkmen citizens, including children (Constitution, art. 11).

It is prohibited to recruit minors into religious organizations or to instruct them in a religious faith against their will or against the will of their parents or persons in loco parentis (Freedom of Religion and Religious Organizations Act of 21 October 2003, art. 3).

It is prohibited to sell alcoholic beverages to minors in Turkmenistan.

61. The Constitution and laws of Turkmenistan guarantee the equal rights and freedoms of all citizens and the equality of all citizens before the law, irrespective of sex, ethnicity, attitude to religion, language and other distinctions (Constitution, art. 17).

Turkmen legislation on rights and freedoms makes no distinction between boys and girls; children of both sexes are endowed with identical rights and obligations. Upon attainment of marriageable age, men and women have the right to enter into marriage by mutual consent. With the attainment of marriageable age a person is considered to be sexually mature.

#### **IV. GENERAL PRINCIPLES**

##### **A. Non-discrimination (art. 2)**

62. Turkmenistan pursues a policy of common understanding among peoples and of the prohibition of any distinction, restriction or preference based on race, colour, sex, language, religion, political or other opinions, national, ethnic or social origin, wealth or other considerations.

The principle of non-discrimination underpins the work of all higher and local authorities and administrations and the organization and work of law enforcement and judicial bodies and the public-health, social security, education and other systems.

63. Turkmenistan respects and upholds all the rights provided for by this Convention for every child without any discrimination based on race, colour, sex, religion, political or other opinions, national, ethnic or social origin, wealth or state of health or on the place of birth of the child or his or her parents or legal representatives, or any other considerations. The policy of non-discrimination consistently pursued by independent Turkmenistan is rooted in the mentality of the Turkmen people and its age-old history and traditions in relations with other peoples.

Article 3 of the Rights of the Child Act of 5 July 2002 states: “All children living in Turkmenistan have equal rights, irrespective of their ethnic origin, race, sex, language or religion, social origin, wealth or other status or education, of their place of birth or of that of their parents or other legal representatives, or of the circumstances of their birth, their state of health or other considerations.”

64. The policy of upholding the rights of the child pursued by Turkmenistan applies without exception to all categories of children, of Turkmen and other ethnic descent, including displaced persons, refugees or stateless persons. Turkmenistan’s policy for children envisages the de jure and de facto protection of the rights and legitimate interests of children, the prohibition of discrimination against them, and the restoration of their rights when these are violated. The

policy applies equally to children in towns and rural districts and to boys and girls from all vulnerable groups, who are the object of special care in Turkmen society. For example, in order to offer social support and adjustment to disabled children, the State “maintains educational, medical and rehabilitative institutions enabling disabled children to receive instruction, vocational training and education appropriate to their state of health. Children whose vocational opportunities are restricted on health grounds shall be placed in employment by the National Employment Service” (Rights of the Child (Guarantees) Act, art. 31). Child homelessness has been eliminated in Turkmenistan. Orphans are cared for by the State: there is an orphans’ palace in Ashgabat and orphanages in each region where children are fully maintained at State expense and surrounded by care and attention.

Stateless children, refugee children and displaced children living in Turkmenistan are entitled to social security and social protection, medical care and education on the same footing as Turkmen citizens.

Discrimination against children per se does not occur in Turkmenistan, thereby precluding the need for data on discrimination disaggregated by various categories of children, as requested in the General Guidelines of 11 October 1996 regarding the form and contents of periodic reports to be submitted by States parties.

65. Turkmenistan has developed a system of economic, social and legal measures to protect the rights of the child against all forms of discrimination or unwarranted liability that might arise in respect of the child’s status or the expressed views or opinions of the child himself, the child’s parents or legal guardians or other members of the child’s family.

The measures envisaged by the national strategy for the economic, political, and cultural development of Turkmenistan in the period to 2020 aim further to increase the prosperity of the nation, extend the social security and support network for needy groups of the population, including children, and create ever greater opportunities for the unfettered and all-round development and fulfilment of all sections of society, and primarily children.

### **B. The best interests of the child (art. 3)**

66. The constitutionally guaranteed equality, inviolability and inalienability of rights and freedoms extend to all age groups, including children. At the same time, national legislation regulating particular sets of legal relations is based on the principle of the best interests of the child. Provisions to that effect are contained in the Turkmen Constitution, the Marriage and Family Code, the Code of Labour Laws, the Education Act, the Health Protection Act, the Rights of the Child (Guarantees) Act and the Young People’s Right to Work (Guarantees) Act, among others.

Turkmen State policy for children envisages the establishment of national social standards for children’s lives, the development and implementation of special State programmes to prioritize the protection of children’s rights and legitimate interests, support for mothers and children, and the fulfilment of Turkmenistan’s international commitments in respect of the protection of the rights and legitimate interests of children (Rights of the Child (Guarantees) Act, art. 4). These principles underpin the work of Turkmenistan’s executive, administrative and judicial bodies.



67. The principles of the best interests of the child in family life are enshrined in the Constitution, article 25 of which states: “Parents or persons in loco parentis have the right and the obligation to raise their children, attend to their health and development, instruct them, prepare them for work, and to instil in them culture and respect for laws and national traditions.”

Article 24, paragraph 2, of the Rights of the Child (Guarantees) Act stipulates that parents or legal representatives must help a child to perform autonomous actions intended to realize and protect his or her rights and legitimate interests, having regard to the child’s age and dispositive legal capacity. Parental rights cannot be exercised in a way that contradicts the interests of the child. In the event that either or both parents fail to carry out their duty to raise their children properly or abuse their parental rights, children are entitled to apply to an agency of tutorship or guardianship for the protection of their rights and interests (Marriage and Family Code, arts. 63, 74 and 65).

Where the parents live apart, the children’s place of residence shall be determined with the consent of the parents. If the parents cannot agree whom the child will live with, the matter must be settled by a court in the light of the child’s interests and views.

A parent who lives apart from his or her children must be involved in their upbringing. Either or both parents may be deprived of their parental rights if it is established that they are shirking their obligation to raise their children, abusing their parental rights or engaging in child abuse (Marriage and Family Code, art. 70).

In exceptional circumstances, when a child’s life or health is in immediate danger, an agency of tutorship or guardianship is entitled to take the child away from its parents or the persons having custody over it, with immediate effect (Marriage and Family Code, art. 77). In placing a child removed from parental care, account must be taken of the child’s ethnic origin, religious and cultural background and mother tongue, and of the scope for ensuring continuity in the child’s upbringing and education.

68. The need to uphold the interests of children is a priority consideration when allocating budget appropriations, as reflected in legislation on the national budget. It is a mandatory requirement in the formulation of social and economic policy and in housing, transport, environmental and other planning that the needs of children, pensioners, the disabled and other specified groups be taken into account. This principle is embodied in the national strategy for the economic, political, and cultural development of Turkmenistan in the period to 2020 and, in greater detail, in the various regional economic and social programmes.

69. The principle of the best interest of the child is the basis for resolving matters relating to adoption. Turkmen law permits adoption only if the child is a minor and adoption would be in its interests. Children who have attained 10 years of age cannot be adopted without their consent. That consent must be determined by the agencies of tutorship or guardianship, which are also competent to decide whether the adoption should proceed (Marriage and Family Code, arts. 115 and 116). The confidentiality of adoption is protected by law.

In terms of personal and property rights and obligations, adopted children and their descendants rank as blood relatives of their adoptive parents and the adoptive parents' relatives, and vice versa. Adopted children forfeit their personal and property rights and are freed of all obligations towards their biological parents and their biological parents' relatives.

70. The priority accorded to the interests of the child is also a factor in all procedures applicable to immigrants, asylum-seekers and refugees. Unless otherwise specified by law, foreigners and stateless persons and their children have the same rights and freedoms as Turkmen citizens and their children.

Under the Foreigners (Legal Status) Act of 8 October 1993, as subsequently amended and supplemented, foreigners in Turkmenistan are equal before the law irrespective of their origin, social status, wealth, race, ethnic background, sex, education, language, attitude to religion, clan, profession, or other considerations.

The children of foreigners in Turkmenistan have the same rights and freedoms as Turkmen children.

The internationally recognized principle of family unity underpins the procedure for granting refugee status to adults or children in Turkmenistan. Article 8 of the Refugees Act states that if one member of a family is granted refugee status, that status shall also be granted to the family members for whom the person is responsible and who entered the country with him or her. Refugee status may also be granted to children entering Turkmenistan unaccompanied by parents or guardians, if they petition to be recognized as a refugee. With a view to family reunification, the Turkmen authorities help such children to obtain information on the identity and whereabouts of their parents, other relatives or guardians.

71. The administration of juvenile justice by the ordinary courts is regulated by the laws of Turkmenistan. Judicial power in Turkmenistan is exercised by the courts alone. Article 97 of the Constitution states: "The judiciary is intended to protect citizens' rights and freedoms and such State and public interests as are protected by law." Turkmen judges are independent, subject only to the law, and are guided by their inner conviction.

Turkmen criminal law and law of criminal procedure contain special provisions that regulate the procedures for investigating offences committed by teenagers, hearing these cases in court and determining appropriate juvenile penalties.

72. In order to strengthen legal safeguards for upholding citizens' rights and freedoms and create effective legal procedures to protect individuals against unwarranted or unlawful prosecution, the institution of criminal proceedings is subject to the authorization of commissions at regional, city and district level. These commissions comprise representatives of State bodies and voluntary organizations (Institution of Criminal Proceedings (Procedure) Act of 12 May 2000). This highly effective measure for ensuring the legality of criminal proceedings has special significance for minors, in that juvenile first-time offenders guilty of a minor offence

or an offence of intermediate gravity may, if the law so provides, be excused punishment. In such instances, criminal proceedings may not be instituted, proceedings already under way will be dropped, the minor will be absolved from criminal liability and compulsory re-education measures will be applied (Criminal Code, arts. 88 and 89).

73. In the course of an initial inquiry or pretrial investigation, a minor may be called as a witness through his or her parents or other legal representatives. A teacher may be called to attend the questioning of a minor as a witness (Criminal Code, arts. 156 and 159).

The presence of counsel is required in judicial proceedings involving minors (Code of Criminal Procedure, art. 51). The parents and other legal representatives of a minor defendant must be summoned to attend the court hearing, and they must be present in the courtroom throughout the trial (Code of Criminal Procedure, arts. 255 and 255-1).

A juvenile first-time offender guilty of a minor offence may be absolved from criminal liability by the court and compulsory re-education measures may be applied instead. These include a caution; a supervision order addressed to a parent, person in loco parentis or the internal affairs agencies; the obligation to make amends for harm caused; restriction of leisure time or a requirement that the minor behave in a certain way.

In sparing a minor punishment, the court may decide to place the minor in a reform school or appropriate medical rehabilitative institution. At reform schools minors receive a general secondary education and instruction in some kind of trade. They are maintained and educated at the expense of the State.

74. Children's interests in the social sphere are upheld through a series of special measures.

Turkmenistan has established an extensive network of childcare institutions that ensure the necessary arrangements for children to receive general and special education, medical treatment, etc. Among such institutions are preschool facilities, residential schools, homes for disabled children, baby-friendly hospitals, summer holiday camps and children's sanatoriums, all of which are maintained by the State.

Turkmen law provides for a system of allowances and benefits for needy teenagers and their families. Minors who work a partial working day are paid as if they had worked a full working day. Teaching in schools and higher educational establishments is free of charge. Young people studying abroad enjoy subsidized travel to their places of study, as well as to their homes during the holidays. Medical treatment for children is free, and stadiums, sports grounds, libraries, clubs, museums and other social and cultural facilities are at their disposal.

75. The Turkmen State has put in place legislative and administrative arrangements to ensure that children are cared for and protected by their parents, guardians or other persons responsible for them, and has given the carers corresponding rights and obligations. It is the constitutional right and duty of parents to raise their children, attend to their health and development, instruct them, and prepare them for employment.

If one or both parents shirk their obligation to raise their children, abuse their parental rights, engage in child abuse, exert a harmful influence on their children through their immoral or antisocial behaviour, or are chronic alcoholics or drug addicts, they may be deprived of their parental rights by the courts (Marriage and Family Code, arts. 70 and 71). In exceptional cases, when a child's life or health is in immediate danger, an agency of tutorship or guardianship is entitled to remove a child from its parents or other persons having de facto custody over the child, with immediate effect. In such cases, the agency must immediately notify the procurator of its actions and within seven days take legal action to deprive the parents of their rights and remove the child from their custody (Marriage and Family Code, art. 77).

Parents must maintain their minor children and any children who have reached the age of majority but are unable to work. Child support payments are recoverable through the courts.

76. An important aspect of childcare in Turkmenistan is the training of professionals for institutions and organizations charged with protecting children's health and safety. In Turkmenistan specialists are trained at 15 secondary vocational and 16 higher educational establishments. Training is provided in 182 specialist vocations at higher educational establishments and 16 specialist vocations at secondary-level vocational training centres. Turkmen citizens also pursue studies at educational establishments abroad.

Specialists intending to work in the public health system, including specialists in children's health, are trained at faculties of the National Institute of Medicine and in medical colleges, where provision has been made for the specialization of future doctors and nurses in children's health care. Turkmenistan has put in place an integrated system of measures to ensure maternal and child welfare. There are 208 women's and advice centres and child health clinics; in 2003 they monitored the health of 92,800 newborns. All medical facilities are staffed by highly skilled personnel and provided with up-to-date medical equipment. High-quality diagnostic centres opened in 2004 have special children's units.

77. Turkmen legislation upholding the interests of children fully conforms to international standards and the provisions of the Convention on the Rights of the Child. Meanwhile, work is continuing on improving this branch of the legal system. Domestic law is kept under review and international standards are incorporated into Turkmenistan's legal system. For example, new legislation in the areas of civil procedure, family and marriage law and labour law is now being drafted, and the interests of children will be reflected in it.

78. The professional training of personnel whose work touches on the rights of the child involves study of the rules of international and domestic law concerning the rights of the child, specialist educational and psychological preparation for work with children, attendance at advanced vocational training institutes, and refresher training for teachers, physicians, etc., working with children. Special training in this area is also included in the curriculum of educational establishments that train specialist personnel for law enforcement agencies. For example, a course of this kind is offered to students at the Turkmen Police Academy.

### **C. The right to life, survival and development (art. 6)**

79. The child's right to life and development is ensured by the policy of the President and Government of Turkmenistan, the country's unique social welfare system, phase-by-phase programme documents for the country's economic, social and cultural development, and specific practical measures to ensure the best protection of the interests of the child.

The child's right to life is based on the constitutional stipulations that every citizen has the right to life and the freedom to exercise that right, and the right to health protection and medical treatment (Constitution, arts. 20 and 33).

Article 6 of the Rights of the Child (Guarantees) Act states that children have an inalienable right to life and to proper conditions for their physical, mental and moral development. The State takes legal, economic, social and other measures to protect children's lives, development and healthy and safe living conditions.

Article 17 of the Health Protection Act of 14 December 2002, entitled "The right of minors to health protection", lists arrangements for organizing and carrying out various preventive measures, medical check-ups and treatment for children, child guidance services, and instruction in health and hygiene by relevant agencies and organizations.

The penalties in Turkmen law for offences against the life and health of a child are instrumental in upholding the child's right to healthy development. A special chapter of the Turkmen Criminal Code, "Offences against minors, the family and morality", establishes criminal liability for, among other things, assaults on the life and health of a minor, cruel treatment of a minor, deliberate abandoning of a child without assistance in a situation dangerous to life or health, infection of a minor with HIV or a venereal disease, enticement of a minor into prostitution, or inducement to consume narcotic drugs.

The entire national health system, information on which is contained in paragraphs 74, 75 and other parts of this report, protects children's life and health.

80. The implementation of the wide-ranging State "Health" programme, the construction of ultramodern medical centres and the reorganization of the health-care system have resulted in profound and positive changes in the life expectancy of the population and a reduction in mortality rates, especially among children.

Thanks to the implementation of the national programme "Immunization", rates of infectious disease have declined significantly, decreasing by a factor of more than 2.5 in the period 1998-2005.

Infant mortality is in steady decline. The death rate among children under 1 year of age decreased by a factor of three over the period 1993-2003.

#### **D. Respect for the views of the child (art. 12)**

81. The constitutional right of citizens of Turkmenistan to freedom of opinion and expression is directly applicable to children.

Children's right to express their views freely and to have their views taken seriously in resolving issues of relevance to them is enshrined in a number of Turkmen legislative instruments.

Children have the right to express their opinions and views freely, and their opinions and wishes must be taken into account, with due regard for their age and maturity, when deciding any matter of relevance to them (Rights of the Child (Guarantees) Act, art. 11).

A child's parents or legal representatives must treat him or her as an individual, due account being taken of the child's personality, age and sex. Parents or legal representatives must help a child to perform autonomous actions intended to realize and protect his or her rights and legitimate interests, having regard to the child's age and dispositive legal capacity (Rights of the Child (Guarantees) Act, art. 24).

Under Turkmen law it is prohibited to humiliate a child or violate a child's right to privacy through intimidation or violent or unlawful interference injurious to a child's honour, dignity, affections or reputation.

Where a minor child's parents live apart and are in dispute as to with which of them the child shall live, the matter must be settled by a court. To that end, the court must, taking account of the child's age and development, find out from the child, with which parent he or she wishes to remain (Marriage and Family Code, art. 66).

As a member of a tenant's family, a child has the same right as other family members to reside in and use the family home. As a member of a homeowner's family, a child has the right to inherit the family home (Housing Code, arts. 57 and 58).

Pursuant to laws on education, schoolchildren have the right to take part in the administration of educational institutions in the manner established by the rules of the institution. That right is exercised either directly through participation in general school assemblies, or indirectly through participation in voluntary organizations for children and young people, for example the Turkmen Youth Union, which has primary organizations in educational institutions.

Children's opinions, needs and interests are taken into account when determining optional educational disciplines and organizing extracurricular activities. The current legislative framework gives all children the opportunity not only to state their opinions on various aspects of their lives, but also to have their opinions taken into account at the decision-making stage.

82. In the administration of civil and criminal justice, children are endowed with the rights that vest in a party to proceedings. Under Turkmen law, an individual's legal capacity arises at birth. Only children under 7 years of age lack dispositive legal capacity. Minors aged

between 7 and 18 years have limited dispositive capacity (Civil Code, arts. 20, 21 and 25). In civil cases, the rights and interests of minors aged between 15 and 18 years are defended in court by their parents; however, the court must summon the minors themselves to take part in the proceedings (Code of Civil Procedure, art. 98).

Minors may appear as parties to criminal proceedings and will have in them the rights provided for the legislation on criminal procedure (Code of Criminal Procedure, chap. V). The interests of minors who are unable to exercise their procedural rights by reason of age or level of mental development are defended by their representatives - lawyers, legal representatives, close relatives, etc. (Code of Criminal Procedure, arts. 50 and 57).

83. Under Turkmen law, minor foreign citizens also have the right to express their views freely. Pursuant to article 22 of the Rights of the Child (Guarantees) Act, children who are not Turkmen citizens but are lawfully present in Turkmen territory have the same rights and obligations as Turkmen children. The opinions of minors are also sought in the course of procedures connected with the granting of asylum.

84. Turkmenistan is implementing multifaceted educational and outreach programmes on issues pertaining to child development and to international standards and national legislation in this sphere. International human rights treaties, including the Convention on the Rights of the Child, are studied in Turkmen schools and higher educational establishments. There exist translations into Turkmen of all the core international instruments in this area, including the Convention; they have been printed in large numbers and incorporated into compilations of domestic and international law. National organizations, in conjunction with the offices of OSCE, UNICEF, UNHCR, UNFPA and IOM accredited in Turkmenistan, run an extensive programme of seminars, round tables, conferences and discussions attended by police and prison officers, judges, local commissioners for minors' affairs, teachers, health workers, staff at agencies of tutorship and guardianship, and students from higher education and secondary vocational establishments. No statistics are kept on the occupations of those attending these events. The proposals put forward by young people and the wishes they articulate at their frequent meetings with the Turkmen President, in addition to the proposals and wishes of representatives of voluntary organizations (the Youth Union, the Women's Union), are used in preparing policy documents and specific plans for social, economic, political and cultural development.

## **V. CIVIL RIGHTS AND FREEDOMS**

**(arts. 8, 13-17, 37 (a))**

### **A. Name and nationality (art. 7)**

85. Pursuant to article 7, paragraph 2, of the Rights of the Child (Guarantees) Act, a child's birth must be recorded at a civil registry office according to the prescribed procedure. Turkmen law knows no exceptions to this rule.

An oral or written declaration of the birth of a child must be made within one month of the birth. In the event of the parents' illness, death or other inability to make such a declaration, the child shall be registered pursuant to a declaration by relatives, neighbours, the administration

of the medical institution where the mother gave birth to the child, or other persons. The register of the child's birth shall indicate the child's name, patronymic and surname, information about the parents, and the child's ethnic affiliation, sex, place and time of birth (Marriage and Family Code, arts. 185, 186 and 187).

86. The Marriage and Family Code specifies that a child has the right to a name, patronymic and surname. The child's first name is given by mutual consent of the parents, whereas the patronymic is based on the father's name or given in accordance with national traditions. By Turkmen national tradition, and in accordance with the parents' wishes, children's surnames are based on the father's first name with or without a patronymic, or on the father's first name with or without the addition of the word "ogly" (for boys) or "gyzy" (for girls). The child's ethnic affiliation and citizenship are determined by the citizenship and ethnic origin of the parents. The same registration data is requested for all children, and the data requested must not be of a prejudicial or discriminatory nature.

If the parents change their first name or surname, the child's surname may be changed accordingly. At the same time the law provides that, in giving a first name or surname to a child, the child's interests must be taken into account and that the first name or surname of a child who has attained the age of 10 years may not be changed without the child's consent. The termination or voiding of their parents' marriage entails no change in children's surname (Marriage and Family Code, arts. 61 and 62).

Children born in Turkmenistan to asylum seekers and refugees are subject to registration according to the same procedure as the children of Turkmen citizens. Article 22 of the Rights of the Child (Guarantees) Act states: "Unless specified otherwise by Turkmen law or the international treaties of Turkmenistan, a child who is not a citizen of Turkmenistan but is lawfully present in Turkmen territory shall have the same rights and obligations as children who are citizens of Turkmenistan."

87. Questions of citizenship are regulated by the Turkmen Constitution and other laws and regulations. The Citizenship Act of 30 September 1992, as subsequently amended and supplemented, regulates the procedure for the acquisition, change and loss of Turkmen citizenship by children. A child whose parents are citizens of Turkmenistan has Turkmen citizenship irrespective of its place of birth (Citizenship Act, art. 12).

If one of the child's parents was a Turkmen citizen at the time of the child's birth and the other was a stateless person or unknown, the child has Turkmen citizenship irrespective of its place of birth. When the paternity of a child under the age of 14 whose mother is a stateless person and whose father is recognized as a Turkmen citizen can be determined, the child has Turkmen citizenship irrespective of its place of birth.

A child born in Turkmen territory to stateless persons permanently residing in Turkmenistan has Turkmen citizenship (Citizenship Act, arts. 13 and 14).



A child present in Turkmen territory whose parents are unknown is considered to have been born in Turkmenistan and to be a Turkmen citizen (Citizenship Act, art. 15).

A change in the citizenship of a child aged between 14 to 18 years occasioned by a change in the citizenship of the child's parents by the child's adoption may proceed only with the child's written consent (Citizenship Act, art. 30).

#### **B. Preservation of identity (art. 8)**

88. The Turkmen Constitution establishes that every citizen, including children, has the right to: life, physical or mental integrity; personal freedom and security; free development of his or her personality; freedom and privacy of correspondence; honour; freedom of private life; personal and family privacy, and privacy of postal, telegraphic and telephone communications. The basic rights and freedoms attach to every citizen from birth and are considered to be inalienable and protected by law and the courts against encroachments from any quarter.

Article 7, paragraph 1, of the Rights of the Child (Guarantees) Act establishes that a child has the right to preserve his or her identity, including citizenship, ethnic origin, first name, surname and family ties, from the time of his or her birth.

The Marriage and Family Code, the Code of Administrative Offences and the Criminal Code prescribe liability for substitution of a child, unlawful adoption, breaching of confidentiality in adoption and any other act that unlawfully infringes or circumscribes a child's identity.

#### **C. Freedom of expression (art. 13)**

89. The child's right to freedom of expression is enshrined in article 26 of the Turkmen Constitution. Every Turkmen citizen has the right to freedom of opinion and expression, to disseminate thoughts, ideas and opinions, and the right to engage freely in literary, artistic, scientific and technical work. According to the Constitution, every citizen has the right freely to receive and broadcast information by any lawful means. The exercise of this right must not violate the rights or injure the reputation of others, or endanger State security, public order or public health or morals. These constitutional provisions are amplified in the Press and Other Mass Media Act, the Rights of the Child (Guarantees) Act, the Education Act and other laws and regulations.

#### **D. Freedom of thought, conscience and religion (art. 14)**

90. The consistent policy of democratizing State and public life in Turkmenistan has ensured genuine freedom of religion and confession. Turkmenistan is a secular State, but religion has been a part of the culture and spiritual life of the people from time immemorial. A respectful attitude to believers, religious tolerance and encouragement of the free performance by believers of their ceremonies and rituals are the cornerstones of State policy towards adherents of different religions.

The State guarantees religious freedom and freedom of confession, the equality of religions before the law, and the rights of everyone to determine for themselves their attitude to religion, to practise a religion alone, in community with others or not at all, to express and disseminate their beliefs in connection with their attitude to religion, and to take part in acts of worship or celebrate religious rituals and rites. Respect for the child's right to freedom of conscience and religion and respect for the right of parents to provide guidance to the child in this area are enshrined in the Religious Freedom and Religious Organizations Act of 21 October 2003. No one may be subjected to duress in choosing their attitude to religion or whether to practise a religion, participate in acts of worship or religious rites or ceremonies, or receive religious instruction (op. cit., art. 3).

Article 11, paragraph 1, of the Rights of the Child (Guarantees) Act states that children have the right to freedom of conscience and confession and the right freely to express their opinions.

The State education system in Turkmenistan is separate from religious organizations and is secular in nature. Parents or persons in loco parentis have the right to bring their children up in accordance with their beliefs, but must not coerce children into determining their attitude to religion.

Turkmen citizens have the right to spiritual instruction and religious education of their choosing, alone or in community with others.

Turkmen law imposes no restrictions on the registration or activities of religious groups or organizations, provided their activities do not contravene the Constitution. It is an offence under Turkmen law directly or indirectly to restrict rights or confer advantages, incite hatred or enmity or injure people's feelings on the grounds of religious or atheistic beliefs. Obstruction of the exercise of freedom of conscience and religion is a criminal offence in Turkmenistan (Criminal Code, art. 154).

#### **E. Freedom of association and of peaceful assembly (art. 15)**

91. Article 27 of the Turkmen Constitution guarantees citizens freedom to assemble, rally and demonstrate. As defined in article 1 of the Voluntary Associations Act of 21 October 2003, a voluntary association is a voluntary, self-governing, non-profit organization established at the initiative of citizens who come together on the basis of common interests for the purpose of realizing those interests. The right to freedom of association is realized through the formation of voluntary associations, social movements, unions and social funds.

Voluntary associations operate on the basis of their own by-laws and statutes establishing their right to hold meetings, conferences and congresses. State bodies and their officials are not permitted to interfere in the operation of voluntary associations. The State supports such associations' activities and grants them tax and other concessions.

Article 18 of the Rights of the Child (Guarantees) Act states that children have the right to form voluntary associations intended specifically for children, teenagers and young people.

Citizens who have attained the age of 14 years are entitled to join youth associations, and children who have attained the age of 8 years may enrol or participate in children's voluntary associations.

The national youth organization Makhtumkuli Turkmen Youth Union was formed in 1991. This is a voluntary social organization, which currently has roughly 670,000 members of both sexes. Its main role is to facilitate the rounded development of young people and foster their activity in various spheres of public life, unlock their creativity and help its members to exercise and protect their rights.

Under the National Youth Policy Act of 1 November 1993, the State provides material and financial support to youth and children's organizations, grants them tax concessions, makes various non-refundable subsidies available to newly established youth associations and gives children's organizations the right to use the premises of schools, out-of-school facilities, clubs, cultural centres, sports and other facilities. State bodies, enterprises, institutions and organizations have the right to transfer to youth organizations without valuable consideration premises, equipment or other assets they may require for their activities.

#### **F. Protection of privacy (art. 16)**

92. The right to protection against arbitrary interference in a person's private life, breaches of the confidentiality of correspondence, telephone and other communications, and injury to honour and reputation is embodied in the constitutional principle that the privacy of everyone, including children, shall be protected (Constitution, art. 23). Turkmen law prohibits the violation of a child's right to privacy through violence or unlawful interference injurious to a child's honour, dignity, affections or reputation (Rights of the Child (Guarantees) Act, art. 10).

No one has the right, without legal grounds, to enter another's home against the will of the persons living there. The law protects private life and the confidentiality of correspondence, telephone conversations and postal, telegraphic and other communications. Searches and inspections of domestic premises and seizure and confiscation of correspondence at post and telegraph offices may be effected only on the grounds and in the manner established by the Code of Criminal Procedure. All these provisions apply in equal measure to minors.

The Prohibition of Home Searches (Residents of Turkmenistan) Act is a highly effective tool for the protection of privacy. This Act prohibits searches of people's houses, a recognized symbol of the sanctity of the home, property, family prestige, honour, dignity and pride. Home searches may be conducted only in exceptional circumstances and strictly in accordance with the law.

It is a criminal offence in Turkmenistan unlawfully to collect, store or disseminate without the consent of the person concerned information about private life that is someone's personal or family secret, to disseminate information in a public speech, a publicly exhibited work or the mass media that would damage a person's rights or legitimate interests, intentionally to breach the confidentiality of correspondence, telephone conversations or postal, telegraphic or other communications, or unlawfully to enter a person's home. The law protects the rights of children as well as of adults in these regards.

Children have the right to protection of their civil rights and legitimate interests. Such protection is afforded by the child's parents (or persons in loco parentis), agencies of tutorship and guardianship, State bodies and the courts. A child recognized by law as having dispositive capacity prior to attainment of the age of majority is entitled independently to exercise his or her right to a judicial remedy in general civil-law relations.

Turkmen civil law establishes the right to privacy, i.e. confidentiality of correspondence, diaries, memorandums, notes, sex life, birth, adoption, medical or attorney-client confidentiality, banking confidentiality, etc. Disclosure of information about someone's private life is permissible only in the circumstances prescribed by law. The publication of diaries, notes, memorandums, etc., relating to a person's private life is permitted only with the consent of the author, and disclosure of private letters with the consent of the author and the addressee. If either the author or the addressee is deceased, documents of the kind in question may be published with the consent of the deceased's spouse and children, and subsequently with the consent of other descendants of the deceased.

#### **G. Access to appropriate information (art. 17)**

93. Free access to information and the right to obtain information are guaranteed by article 26 of the Constitution.

Sources of information include newspapers and magazines published in Turkmen and Russian, radio and television programmes, the Internet, satellite television, publications of international organizations such as the United Nations, OSCE, UNICEF, UNHCR, UNFPA and others, publications of diplomatic missions accredited in Turkmenistan, and foreign literature received by Turkmen libraries. Turkmenistan has 234 libraries with a total stock of 10 million books. There is a Turkmen State Children's Library, and all the country's libraries are stocked with children's books.

94. Turkmen television and radio attach considerable importance to disseminating information intended to broaden children's horizons and promote their social, spiritual and moral development, and encouraging a healthy lifestyle for teenagers, both in mind and body. The special television channel "Yashlyk" (Youth) carries programmes for children and young people. These programmes, characterized by a diversity of genres and themes, deal with issues of moral education and the inculcation of qualities such as honesty, decency, respect for elders, and a positive attitude towards study and work. They also touch on the best national traditions, Turkmen history, respect for the culture of other nations, and the promotion of public-spiritedness. Young people from all over the country are invited to take part in radio and television programmes to discuss topical issues and formulate proposals for active participation in public and national life. Extensive use is made of awareness-raising programmes and talks by educators, teachers and public figures. Broadcasts are backed up by exhibitions of children's drawings, performances by dance troupes, competitions and sports contests.

95. The national press deals constantly with children's issues and matters relating to the education and social activism of young people. In particular, these issues are addressed in two publications aimed specifically at children and young people: the newspaper *Nesil* (Generation)

and the magazine *Gunesh* (Sun). In addition, the women's magazine *Gurbansoltan eje* has a regular column devoted to children. National and local newspapers regularly publish articles by students and representatives of youth organizations on various national issues.

National theatres play a significant role in educating children. The Alp-Arslan Turkmen National Youth Theatre, the Russian-language Pushkin State Dramatic Theatre, regional theatres, and Uzbek and Kazakh theatrical troupes put on performances about the history of their peoples that reveal the spiritual depth of the national character. They also perform the best plays from the world repertoire.

96. State and voluntary organizations in Turkmenistan also publish a range of items aimed at children and young people in collaboration with international organizations such as UNDP, OSCE, UNICEF, UNFPA and UNHCR.

With the assistance of offices of international organizations in Turkmenistan, all the core international human rights instruments have been published in Turkmen, and numerous copies have been printed of the Universal Declaration of Human Rights, the Charter of the United Nations, the Convention on the Rights of the Child and other international instruments. Compilations of international and national instruments relating to the rights of, inter alia, children, women and refugees appear regularly: in cooperation with UNDP, UNHCR, UNICEF, IOM and other organizations, the National Institute for Democracy and Human Rights reporting to the President has issued 17 such publications, including the compilation *Mothers and Children*, which contains international and national legislative instruments relating to the rights of the child and maternal and child welfare. These compilations are distributed free of charge to educational establishments, libraries, enterprises, institutions and the public.

The National Institute for Democracy and Human Rights reporting to the President publishes a magazine, *Democracy and the Law*, in Turkmen, Russian and English. The magazine is a platform for politicians, public figures, academics and diplomats from various countries to state their views on the process of democratization under way in Turkmenistan, share the experience of their own countries, and express their thoughts and hopes concerning the further liberalization and protection of civil rights in Turkmenistan, including those of children.

97. The Turkmen authorities protect children against information and material harmful to their spiritual and moral development. In respect of children, it is forbidden by law to exhibit, rent, sell, gift or replicate any toy, film, sound or video recording, book, newspaper, magazine or other printed matter that directly encourages or advocates war, cruelty, violence, racial, religious, sex or age discrimination, or in any other way harms the spiritual and moral development of children.

Turkmen law specifies criminal and administrative penalties for the commission of the acts referred to above (Rights of the Child (Guarantees) Act, art. 30).

**H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

98. Article 21 of the Turkmen Constitution provides that no one may be subjected to torture or cruel, inhuman or degrading treatment or punishment, and that no one may be subjected without their consent to medical (pharmaceutical or therapeutic) or other experiments.

Turkmenistan acceded in 1992 to the 1949 Geneva Conventions and in 1999 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, thereby establishing firm legal safeguards to protect children against inhumane treatment.

Turkmen law establishes criminal penalties for recourse to threats, blackmail or other unlawful acts when administering justice, and for the assault or bullying by persons conducting an initial inquiry or investigation of suspects, accused persons, victims or witnesses, including minors (Criminal Code, art. 197).

It is a criminal offence to cause physical or mental suffering by means of battery upon a minor (Criminal Code, art. 113).

Minors sentenced by a court to spend time in a special reform school or medical institution are guaranteed humane treatment, health care, and the right to receive visits and correspond with their parents or legal representatives.

99. Turkmen citizens, including children, are guaranteed judicial protection of their honour and dignity and personal and political rights and freedoms, and have the right to challenge in a court of law actions that violate their rights or freedoms.

The Act enabling citizens to appeal the actions of State bodies, voluntary associations, local government bodies and officials who violate constitutionally enshrined civil rights and freedoms was adopted on 6 February 1998. Article 1 of this Act states: "Every citizen whose constitutional rights and freedoms have been violated or prejudiced [...] has the right to appeal to the courts." A child's right to take legal proceedings depends on whether the child has attained partial or full dispositive legal capacity. Until such time as a child has attained dispositive capacity, his or her interests are represented in court by the parents or persons in loco parentis.

100. The State protects children against all forms of abuse by parents, legal representatives or other persons responsible for their upbringing and care and ensures appropriate supervision of the proper conditions for their tutorship and guardianship.

It is forbidden by law and an offence for parents to demean a child, to use intimidation, inflict corporal punishment or otherwise cause pain that would harm the child's mental or physical health (Rights of the Child (Guarantees) Act, art. 24). Coordination and monitoring of children's education and health care is the responsibility of the relevant ministries and departments, agencies of tutorship and guardianship, city and district commissions for minors' affairs, inspectorates of minors' affairs reporting to internal affairs agencies, and voluntary organizations.

## **VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

**(art. 5; art. 18, paras. 1 and 2; arts. 9-11, 19-21, 25; art. 27, para. 4; art. 39)**

### **A. Parental guidance (art. 5)**

101. The family, family relations and traditions rank among the highest national values of the Turkmen people. Multigenerational families with numerous children have been a characteristic feature of Turkmen life for millennia. From time immemorial children have been taught to respect their parents and elder relatives, which has played a central role in moulding the outlook of the younger generation. This noble age-old tradition has been reborn with new vigour in independent Turkmenistan. The restoration of family values and clean-living, harmonious families in which it is the duty of children to respect and care for their parents is a principal objective of national renaissance. It is being pursued in families, preschool facilities and schools through an extensive programme of outreach and education in which parents, family elders, educators and teachers, voluntary organizations, elders and the mass media all play a part.

102. In Turkmenistan, a family upbringing for children is the preferred and best way of upholding the child's rights and interests. The right of parents to raise their children overrides that of all other persons. Comprehensive outreach and education programmes on child-rearing are organized for parents in Turkmenistan. Parents have regular meetings and discussions with the preschool teachers and schoolteachers in charge of their children. Health workers (paediatricians, paediatric psychiatrists, etc.) conduct similar programmes on issues such as healthy lifestyles for children. The press, radio and television run special features that deal regularly with child-rearing issues. Voluntary organizations such as unions of elders, veterans, young people and women devote considerable attention to educational matters in their work.

The State pays special attention to consolidating families. Efforts are being made to frame a family policy as a special system of measures based on traditional family values and centred around issues of family life, with primary emphasis on the family perspective in educating children in a variety of situations, including divorce, adoption, and birth outside marriage.

### **B. Parental responsibilities (art. 18, paras. 1 and 2)**

103. Under Turkmen law, both parents are equally responsible for the life, health and proper education of their child (Rights of the Child (Guarantees) Act, art. 24, para. 3). They must attend to the child's health and physical, psychological, spiritual and moral development and must materially support their minor children. It is for them to decide how and in what way to support their minor children. The mother and father also have an equal obligation to raise and support their children when their marriage has been dissolved. When parents cannot agree on questions relating to the upbringing of the child or the child's place of residence (if the parents live apart), disputes are resolved by a court with input from agencies of tutorship and guardianship, based on the interests of the child and taking account of the child's opinion.

The education of children is based on the principles stipulated in the Convention and the requirement to ensure the child's rounded development.

104. To assist parents in carrying out their child-rearing obligations, the law makes provision for concessional working arrangements, State maternity and child allowances, children's institutions, establishments to care for disabled children, after-school supervision (extended day programmes), summer holiday camps, income tax breaks for parents, payment of survivor benefits to children if the household's breadwinner dies, and supplementary pension provision for children with disabilities.

105. Under the Turkmen Code of Labour Laws, pregnant women or women with children under three may not be required to work at night or on overtime or public holidays or be sent on assignment away from their workplace. Women with children aged between 3 and 14 years (16 years in the case of disabled children) may not be required to work overtime or sent on assignment without their consent. In addition to maternity leave, a woman may request supplementary unpaid leave to care for a child up to the age of three. This leave may be used in full or in part. One parent (or the child's tutor or guardian) bringing up a disabled child aged under 16 is entitled to one additional day off a month, to be paid at the daily wage rate from the national social insurance fund. An employer may not dismiss a pregnant woman or a woman with children under 3 years of age (under 16 in the case of disabled children), or a single mother with a child under 14 years of age. If an enterprise ceases operation, its female employees with children must be found alternative employment. The child allowances to which women are entitled also apply to fathers raising children without a mother (if she is deceased, has been deprived of parental rights, or requires long-term treatment in a medical facility), and to tutors and guardians of minors.

Children from families in vulnerable groups (large families, incomplete families or families with disabled children) enjoy priority access to preschool institutions. Tutors or guardians raising orphans or children without parental care receive allowances to buy food, clothing, footwear and other miscellaneous items.

### **C. Separation from parents (art. 9)**

106. Every child has the right to live and be raised in a family, the right to know his or her parents, the right to be cared for by them, and the right to live with them, except where this would not be in the child's interests. Parents have the right to require the return of their children from any person holding them without legal grounds or in the absence of a judicial decision (Marriage and Family Code, art. 69).

107. Both parents or either parent may be deprived of their parental rights if it can be established that they are shirking their obligation to raise their children, abusing their parental rights, engaging in child abuse, exerting a harmful influence on their children through their immoral or antisocial behaviour, or are chronic alcoholics or drug addicts (Marriage and Family Code, art. 70).

Parents may be legally deprived of their rights pursuant to a petition from either parent or person in loco parentis, a procurator, or any agency or institution charged with protecting the rights of minor children.

Cases involving forfeiture of parental rights are heard with the participation of the procurator and agencies of tutorship and guardianship (Marriage and Family Code, art. 71).



108. When one of the parents is deprived of his or her parental rights, either wholly or in part, custody of the child is transferred to the other parent. If this is impossible or both parents have been deprived either wholly or in part of their parental rights, the child is entrusted to the care of the agencies of tutorship and guardianship.

If it would be dangerous to leave a child with his or her parents, a court may decide, pursuant to an application by the agencies of tutorship and guardianship, State or voluntary organizations, one of the parents or a procurator, to remove the child from the family and entrust him or her to the care of the agencies of tutorship and guardianship, without forfeiture of parental rights. If the grounds for removing the child from his or her family no longer obtain, the court may decide, on application from the parents or a procurator, to return the child to the parents, due account being taken of the interests of the child (Marriage and Family Code, arts. 74, 76 and 77).

109. If the parents live apart, the child's place of residence is to be determined by agreement between the parents. If the parents cannot reach agreement, the dispute must be settled by a court, based on the child's interests and wishes (Marriage and Family Code, art. 66).

In reaching its decision, the court must take account of the child's attachment to each parent and any siblings, the child's age, the parents' moral and other qualities, the relationship between each parent and the child, and the potential to provide for the child's education and development.

110. If the parents live apart, and also if they live in different States, the child has the right to contact with both parents. The parent who lives apart from the child has the right to contact with the child and to be involved in the child's upbringing and in decisions affecting the child's education. The agencies of tutorship and guardianship can provisionally deprive a parent who lives apart from a child of the right to contact, if such contact would damage the normal upbringing of the child and harm his or her physical and mental health or moral development.

A tutor or guardian is not entitled to obstruct contacts between a child and his or her parents and other close relatives, except in circumstances where such contact would be against the child's interests (Marriage and Family Code, art. 68).

111. A child who lives apart from his or her parents or legal representatives is nevertheless entitled to maintain a personal relationship with them and receive news of them, provided this does not harm the child or breach the confidentiality of adoption. Pursuant to the President's Decision of 3 October 1994 on family-type children's homes, educators at such homes must not obstruct contacts between the child and his or her parents or the reunification of child and parents in the event of restoration of parental rights, release from a place of detention or other circumstances that do not harm the child's interests.

112. Turkmen citizens have the right to obtain information (Constitution, art. 26). The State helps children to obtain information from a variety of sources, primarily information about their parents and relatives and those persons' whereabouts (Rights of the Child (Guarantees) Act, art. 30). The relevant agencies help refugees to obtain information about relatives living in the refugees' countries of origin, as provided for by the Refugees Act of 12 July 1997.

#### **D. Family reunification (art. 10)**

113. Under the Constitution and laws of Turkmenistan, citizens of the country have the right to family reunification. They cannot be expelled from Turkmenistan, nor may their right to return to Turkmenistan be restricted. The State guarantees the protection of Turkmen citizens both inside and outside Turkmenistan. Foreigners and stateless persons have the same rights as Turkmen citizens, unless specified otherwise by law (Constitution, arts. 7 and 8).

114. Pursuant to the Entry and Exit Procedures (Turkmen Citizens) Act of 15 June 1995, as subsequently amended and supplemented, Turkmen citizens have the right freely to enter and leave the country and may not be deprived of it (op. cit., art. 1). The departure of a Turkmen citizen from Turkmenistan in no way restricts the rights of the individual in question or of his or her spouse or close relatives as guaranteed by current Turkmen law and Turkmenistan's international commitments. Temporary restrictions on departure from Turkmenistan may be imposed by a decision of the President in the event of an emergency in a foreign country that might endanger the health of Turkmen citizens or render it impossible to guarantee their personal safety (ibid., art. 9). Under an agreement with the Islamic Republic of Iran, Kazakhstan and Uzbekistan, reciprocal visa-free visits by citizens of adjoining territories are permitted for the purposes of contact with relatives, trade and cultural exchanges.

115. Turkmen citizens who have not attained the age of 18 years may leave Turkmenistan pursuant to a notarially certified application by their legal representatives. In the event that one of the parents withholds consent, the matter may be referred to the courts for a ruling. A child aged between 14 and 18 may leave Turkmenistan to reside abroad permanently only if the child's notarially certified written consent has been obtained (ibid, art. 10).

116. The Turkmen authorities deal in a positive, considerate and timely manner with applications by parents or children to enter or leave the country. The submission of such applications entails no untoward effects for the applicants or members of their families. Turkmen law states: "All the provisions of Turkmen law apply to Turkmen citizens who ask to leave Turkmenistan and to members of their families. They have all the rights and statutory obligations of Turkmen citizens. No restrictions of their civil, employment, housing or other rights are permitted" (ibid, art. 16).

117. In considering applications from separated refugee families, unaccompanied children or children seeking asylum, the Turkmen authorities take steps to reunite children with their parents or relatives. These matters are dealt with by the National Aliens Registration Service, the agencies of tutorship and guardianship, the consular service of the Ministry of Foreign Affairs and the UNHCR office in Turkmenistan.

The administrations of Turkmen children's institutions trace refugee children's parents through the relevant departments, and also through the offices of UNHCR and the International Red Cross and Red Crescent Movement. The Ministry of Internal Affairs is also involved in tracing the parents, persons in loco parentis and close relatives of children.

### **E. Illicit transfer and non-return (art. 11)**

118. The State takes all necessary steps to prevent the abduction, trafficking or smuggling of children for any purposes or in any form.

Turkmenistan has not encountered the problem of the illicit transfer and non-return of children from abroad, but is involved in international cooperation to protect children's rights and legitimate interests and ensure maternal and child welfare, and meets its international obligations in this sphere (Rights of the Child (Guarantees) Act, arts. 34 and 37). The abduction or substitution of children is a criminal offence in Turkmenistan (Criminal Code, arts. 126, 128).

### **F. Recovery of maintenance for the child (art. 27, para. 4)**

119. Article 8, paragraph 1, of the Rights of the Child (Guarantees) Act stipulates that no child shall be abandoned without essential means of support or without care or custody.

A child has the right to be supported by his or her parents and other family members. Parents have the obligation to support their minor children. It is for them to decide how and in what way to do that. Upon divorcing, parents have a right to conclude an agreement on how their minor children are to be maintained. Failure by parents to maintain their minor children will result in a court order to deduct monthly child support payments from their income in the following amounts: one quarter of the parents' earnings or income in the case of one child; one third in the case of two children; and one half in the case of three or more children (Marriage and Family Code, arts. 80 and 81). Child support may also be recovered in fixed amounts, according to the principle that the child should, to the extent possible, continue to have the level of support that it previously enjoyed. In the event of the child's serious illness or in other exceptional circumstances, the court may order each parent to bear additional expenses connected with these circumstances (Marriage and Family Code, art. 86).

In the case of children without parental care, support payments are recovered from the parents and transferred to the child's tutor or guardian. If a child is living in a children's institution, the child support is payable to the institution (Marriage and Family Code, arts. 82 and 167). It is a criminal offence under Turkmen law to avoid paying child support.

120. Turkmenistan is a party to the CIS countries' Convention on the provision of judicial assistance and legal relations in civil, family and criminal cases, which concerns inter alia continuation of child support by parents living in independent States within what was the territory of the USSR. The Convention regulates the recognition and enforcement of child support decisions. Turkmenistan has concluded multilateral agreements guaranteeing citizens' entitlements to social benefits, compensatory relief for families with children, and child support. Agreements of this kind have been concluded with the Russian Federation, the Republic of Moldova, Ukraine, Kazakhstan, Uzbekistan, Tajikistan, Armenia, Belarus, Georgia and Kyrgyzstan. Turkmenistan has also concluded bilateral agreements on the provision of judicial assistance in family, civil and criminal cases.

Article 1 of the State Benefits Act of 17 July 1998 guarantees public assistance to children in the event of the death of their family provider.

### **G. Children deprived of a family environment (art. 20)**

121. The extensive and active participation of relatives in the upbringing of orphans is a characteristic feature of the Turkmen mentality: Close or other relatives will always care for bereaved children. If a child has no close relatives or if for some reason relatives are unable to take in the orphan, the State steps in. Turkmenistan is implementing comprehensive programmes to ensure that children deprived of a family environment enjoy the best possible living conditions and develop their full potential.

Pursuant to article 24, paragraph 4, of the Rights of the Child (Guarantees) Act, the State ensures that children deprived of parental care receive a family-type upbringing in the form of adoption, tutorship, guardianship, or placement in a children's home fully maintained by the State.

122. In Turkmenistan there is a network of children's homes offering pastoral care and administering preschool and school programmes. They also provide supervision, care and opportunities for recreation. A total of 502 children were living in these homes at the start of 2003. Of them, 7 per cent were aged under 6, 79 per cent were aged between 7 and 15, and 14 per cent were aged 16 and over.

Valuable educational work is performed by residential schools, where children live and study during the working week if their parents' employment makes this necessary.

Children living in homes and residential schools are maintained entirely at State expense, and live in conditions approximating to those in a family home. In this way every child's right to benefit from the living conditions necessary to ensure his or her full physical, mental, spiritual, moral and social development is respected. Local authorities provide additional assistance to children's homes.

123. Mentally and physically disabled children are accommodated at 18 specialized preschool institutions and 14 specialized residential schools, where 2,534 children were in residence in 2002.

The curriculum offered to children in these residential facilities differs from the education programme in secondary schools. A special tactile alphabet has been developed for the Turkmen language, and a Braille alphabet modified for Turkmen is also in use. Instruction, education and rehabilitation at these institutions are overseen directly by medical specialists. The curriculum provides for vocational training, and graduates of specialized residential schools are found employment in their trade upon leaving the institution.

A total of 126 children attend the Ashgabat school for the blind and visually impaired. They receive a full education under the supervision of a psychologist, paediatrician, stomatologist and ophthalmologist. They occupy their free time with music, sports, needlework and other pursuits.

124. The first family-type children's homes, a progressive innovation as regards the placement of orphans and children without parental care, were inaugurated in Turkmenistan in 1994. In order to improve State assistance to orphans and children without parental care and provide them

with a more varied mix of community, collective and family forms of upbringing, the Turkmen President promulgated a decision on family-type children's homes on 3 October 1994. The living conditions at such establishments approximate as closely as possible to those in a family home and aim to reproduce the healthy moral and psychological atmosphere of a family.

By law, children cared for in family-type children's homes or foster families receive a living allowance. The amount received by each child corresponds to the cost of maintaining a child entirely at the expense of the State.

When deciding to establish a family-type children's home, the persons assigned the role of parent-educators, or house parents, are accorded priority in the allocation of a detached house or multi-room apartment where they can live with the children for whose upbringing they are responsible (Housing Code, art. 41-1).

Children in homes and residential schools receive prompt medical treatment. Opportunities for leisure activities are always available. Every year, through a combination of public funding and charitable donations, orphans are able to go to holiday camps in the countryside, sanatoriums, summer cottages and school camps.

125. Children without parental care are placed by agencies of tutorship and guardianship. No other corporate bodies or private individuals are permitted to place children.

Pursuant to article 16, paragraph 2, of the Rights of the Child (Guarantees) Act, a child living in Turkmenistan has the right to use what, depending on his or her ethnic origin, is his or her mother tongue and to observe the corresponding cultural and national traditions and customs. Thus, in placing children deprived of parental care, due regard is paid to the child's ethnic, religious, cultural and linguistic background and to the possibility of ensuring continuity in the child's upbringing and education. Children without parental care are normally placed with families or in residential children's institutions near to their place of birth or residence.

## **H. Adoption (art. 21)**

126. In Turkmenistan, matters relating to adoption are dealt with by the agencies of tutorship and guardianship of the regional, city and district authorities, on the basis of the Regulations on agencies of tutorship and guardianship ratified by the Cabinet of Ministers. Adoption, as regulated by articles 115-140 of the Marriage and Family Code, is permitted only if it serves the interests of a minor child. For an adoption to proceed, the parents must give their written consent if they have not been deprived of their parental rights. Their consent is not required if they have been deprived of their parental rights or formally declared as lacking legal capacity or missing. The consent of the administration of a State-run children's home is required for the adoption of a parentless child living in a home. The consent of the adoptee is required if he or she has attained the age of 10 years (Marriage and Family Code, art. 121). In resolving all matters relating to adoption, the agencies of tutorship and guardianship play a determining role. They act as guarantors of the child's interests and ensure that the adoptive parents perform their obligations properly.

Excepting agencies of tutorship and guardianship, no other corporate bodies or private individuals are permitted to identify or hand over for adoption children without parental care. If statutory provisions and procedures are breached, or if the child's interests are prejudiced, there exists a statutorily defined procedure for invalidating or annulling the adoption. Only the courts may annul or invalidate adoptions (Marriage and Family Code, art. 130).

127. The following categories of persons may not be adoptive parents: persons deprived of their parental rights, persons declared under the statutorily prescribed procedure as having limited or no legal capacity, persons convicted of avoidance of child support payments, and previous adopters in respect of whom an adoption was annulled because they failed to perform their obligations properly (Marriage and Family Code, art. 117).

The law requires that a child's adoption be kept secret. In order to protect confidentiality in adoption, the adoptive child's place of birth may be changed at the request of the adoptive parent (Marriage and Family Code, art. 129).

It is an offence under Turkmen law to breach the confidentiality of adoption against the adoptive parent's wishes (Criminal Code, art. 157).

128. In terms of personal and property rights and obligations, adopted children and their descendants rank as blood relatives of their adoptive parents and the adoptive parents' relatives, and vice versa (Marriage and Family Code, art. 127).

Children, including adopted children, are priority heirs at law (Civil Code, art. 154).

129. It is extremely rare for foreigners to adopt Turkmen children; any such adoptions are isolated occurrences. Should any such case occur, the adoption would be arranged in accordance with Turkmen law.

#### **I. Periodic review of circumstances relating to the care of the child (art. 25)**

130. Pursuant to paragraph 12 of the Regulations on agencies of tutorship and guardianship, these agencies of the local administration "shall monitor compliance by tutors and guardians with the obligations imposed on them and render assistance to tutors and guardians in supporting and educating their wards". The agencies' principal function is "to protect the personal and property rights and interests of wards" (Regulations on agencies of tutorship and guardianship, para. 10). Agencies of tutorship and guardianship make enquiries of individuals and officials to obtain information about the living conditions and, if necessary, the medical treatment of persons subject to tutorship or guardianship. They are entitled to interview tutors, guardians or any other persons and to ask them to furnish explanations on matters relating to the protection of wards' personal and property rights.

131. Education offices of local administrations systematically monitor the education of wards and ensure that tutors or guardians fulfil their obligations in this respect. They have the right, where necessary (for example if tutors or guardians do not fulfil their obligations properly, or if

they abuse their position for mercenary ends, etc.), to petition agencies of tutorship and guardianship to relieve tutors or guardians of their duties or to prosecute them (Civil Code, article 29, paragraph 3; Regulations on agencies of tutorship and guardianship, paragraph 17 (e) and (f)).

132. Medical departments of local administrations supervise the medical care and treatment of minors subject to tutorship or guardianship. They provide the wards of tutors and guardians with necessary medical care and ensure that their health is monitored on an ongoing basis. The medical departments systematically monitor wards' living conditions and ensure that tutors and guardians are performing their obligations (Regulations on agencies of tutorship and guardianship, paras. 18 (f) and (g)).

133. The agencies of tutorship and guardianship regularly assess conditions of tutorship or guardianship. At least twice a year, the agencies themselves check that tutors and guardians are educating their wards, providing them with proper living conditions, care and treatment, protecting their rights and interests and administering their property. Education and medical departments also assess conditions of guardianship. They supervise all children in need of guardianship, without exception, including abandoned children, disabled children, children seeking asylum and child refugees.

#### **J. Maltreatment and neglect (art. 19), physical and psychological recovery and social reintegration (art. 39)**

134. Turkmenistan's State policy for children includes legislative support for their rights and legitimate interests and accordingly prohibits discrimination against, and maltreatment of children and provides for the restoration of their rights in the event of violations. A family upbringing is the preferred and best way of ensuring the all-round development of the child's personality. Turkmen legislation on marriage and the family, civil-law relations, employment and criminal matters gives priority to the rights of minors and prohibits all forms of physical or mental violence against, and the exploitation of, children in the family circle or in public, private, penitentiary, preschool or educational establishments.

135. In order scrupulously and consistently to implement the Convention on the Rights of the Child and the laws and regulations protecting the rights of the child that supplement it, the Turkmen Parliament adopted a special statute, the Rights of the Child (Guarantees) Act, on 5 July 2002. The Act implements the provisions of the Convention on the Rights of the Child and the prohibition of all forms of physical or mental violence against children. Thus, article 24, paragraph 3, of the Act states: "It is prohibited to demean or intimidate children and to inflict on them corporal punishment or any other pain that harms their mental or physical health."

The State protects children against all forms of exploitation in the workplace through a range of legal, economic, social, medical and pastoral measures. It is not permitted to employ a child for work that might harm his or her health or impair his or her physical, mental or moral development (Rights of the Child (Guarantees) Act, art. 27; Code of Labour Laws, arts. 181 and 183).

136. Parents who shirk their obligation to raise their children, abuse their parental rights, engage in child abuse, or exert a harmful influence on their children through their immoral or antisocial behaviour, may be deprived of their parental rights by a court (Marriage and Family Code, art. 70).

The Turkmen Criminal Code contains a special chapter prescribing liability for offences against minors, the family and morality. Parents, guardians, teachers and staff at educational institutions and reform schools incur criminal liability for deliberately neglecting their duty to attend to a child's education, and it is also an offence for a tutor to abuse his or her rights or induce a minor to engage in antisocial behaviour (Criminal Code, arts. 155, 156 and 159).

137. The Young People's Right to Work (Guarantees) Act was passed on 1 February 2005. This statute envisages measures to protect children against economic exploitation involving the use of violence and prohibits situations that could endanger a child's health, prevent a child from receiving an education, harm a child's health or physical, mental or spiritual development, or prevent a child from exercising his or her freedom of conscience. Specifically, the Act prohibits parents, tutors or guardians from using children to perform work that approximates to a permanent job or interferes with the child's studies, action that would be considered a violation of the child's rights and interests as enshrined in Turkmen laws and regulations and the generally recognized norms of international law.

138. As noted above, a touching concern for children is a hallmark of Turkmen society. Violent forms of child-rearing are alien to Turkmen national traditions and customs and are practically never encountered in the family circle or in educational, pastoral or any other institutions. Nevertheless, minors have the right to lodge complaints with State or judicial bodies, either in person or through a representative, if they experience maltreatment (Citizens Complaints and Processing of Complaints Act of 14 January 1999).

State and voluntary organizations (Youth Union, Women's Union, etc.), in cooperation with offices of international organizations (OSCE, UNICEF, UNHCR, IOM, etc.) accredited in Turkmenistan, organize extensive outreach activities on the rights of the child, including information about international standards for the treatment and protection of children. There are regular printings of the relevant international and domestic laws and regulations, and talks, seminars, round tables and other events are held to help raise public awareness of, and strengthen compliance with, those instruments.

Considerable attention is paid to implementing multipronged State programmes such as "Education" and "Health", which are carried out with assistance from United Nations agencies accredited in Turkmenistan and are designed to promote children's rounded development and protect their health. These programmes also include arrangements to promote the physical and psychological recovery of children and their social reintegration, in the rare cases where this is necessary.



## **VII. BASIC HEALTH AND WELFARE**

**(art. 6, art. 18, para. 3, arts. 23, 24, 26 and 27, paras. 1-3)**

### **A. Children with special needs (art. 23)**

139. Turkmenistan is doing what is necessary to ensure the proper care of mentally and physically handicapped children and enable them to lead a full and dignified life. The desire to enable these children to live life to the full is reflected in, and safeguarded by national laws, including the Marriage and Family Code, the Code of Labour Laws, the Rights of the Child (Guarantees) Act, the Health Protection Act, the Education Act, the Psychiatric Treatment Act, the National Youth Policy Act, the Persons with Disabilities (Social Welfare) Act, the State Benefits Act and others, and also by Presidential decrees and decisions of the Cabinet of Ministers.

140. Turkmen legislation states that children with disabilities have the right to dignified and full-fledged participation in society. To provide a social support and adaptation service for these children, the State maintains educational, medical and rehabilitation institutions enabling them to receive education and vocational instruction or training commensurate with their state of health. Children with special health needs are placed in employment by the national employment service. Parents or legal representatives bringing up disabled children qualify for the benefits specified by Turkmen legislation (Rights of the Child (Guarantees) Act, art. 31).

141. Disabled children in Turkmenistan are entitled to State benefits (State Benefits Act, art. 13).

Medicaments for disabled children are paid for by the State. The children are entitled to free treatment at sanatoriums and resorts on the recommendation of a physician, and a system of half-price travel has been introduced for them and persons accompanying them to a sanatorium or health resort. Disabled children have priority in the award of places at preschool, medical and rehabilitation facilities. The range of employee benefits enabling working parents to care for a disabled child has been expanded.

Children in delicate health attend sanatorium-type preschool facilities. In 2003 there were 10 sanatorium-type institutions attended by children in delicate health and 8 specialized preschool facilities attended by visually and hearing impaired children and children with locomotive disorders.

142. Five regional centres and 40 home help units administered by the Ministry of Social Welfare and local administrations provide special assistance to disabled people, including disabled children. A veritable palace has been built in Ashgabat for orphans and children without parental care; here the children have every opportunity to enjoy a full and happy life.

In Turkmenistan there is an employment association for disabled people, a national paralympics committee, and a national special Olympics centre. They organize charity events to help disabled sportsmen and women, including children.

Discrimination on grounds of disability, including discrimination against disabled children, is prohibited and subject to prosecution. Officials or individuals who violate the rights, freedoms and legitimate interests of disabled persons will be held disciplinarily, administratively and criminally liable.

#### **B. Health and health-care services (art. 24)**

143. Turkmenistan recognizes the child's right to avail himself or herself of the most up-to-date health-care services and facilities for treating disease and restoring health.

The State guarantees children free medical treatment, ensures that the conditions in which they live and study conform to public health rules and requirements, and promotes and materially supports the establishment of a wide range of out-of-school institutions, sports facilities, clubs and other projects to improve children's health (Rights of the Child (Guarantees) Act, art. 26; Health Protection Act, art. 15).

144. Children enjoy access to health care through an ever-expanding network of establishments providing tuition, pastoral and health care for preschoolers. Turkmenistan has a network of kindergartens and nursery schools to take care of children aged under 7 during the working day. Here the children eat, play, learn and receive medical care. On 1 December 2004 there were 946 preschool institutions in Turkmenistan, attended by 132,000 children.

State nurseries and kindergartens are partially funded by parental contributions. The criterion used to determine the parental contribution is the average per capita income for each member of the family. In practice this is a token payment, but for families with several children it can amount to 50 per cent of the cost.

145. The further development and improvement of maternal and child welfare, a greater role for preventive medicine, and advocacy for a healthy lifestyle and balanced diet are high on the agenda of the national "Health" programme. The programme aims to develop and implement effective preventive measures to improve women's and children's health, taking into account the demographic picture and ethnic peculiarities and traditions. Within the framework of the programme, national subprogrammes have been drawn up on vaccination, breastfeeding advocacy and other topics.

Improvements were made to the primary tier of public health institutions in the course of public health reform. In place of the disbanded medical institutions in Ashgabat and the regional capitals, multidisciplinary and specialized hospitals have been established, including baby-friendly hospitals. In rural areas, various medical institutions have been reorganized into rural health centres structurally integrated into district hospitals. In the cities, health clinics have been reorganized into urban health centres. Family-based medical care has been introduced.

On 1 January 2004 the country had 4,367 operational family health centres, staffed by 3,137 family doctors, 1,061 family paramedics, and 6,237 nurses.

Public expenditure on health care, and primarily on maternal and child health, is increasing every year. In 1995, 9 per cent of the State budget was spent on the health sector, whereas in 2003 the proportion had risen to 16 per cent. As a proportion of gross domestic product, this expenditure has increased from 1.8 to 3.8 per cent.

146. As part of the “Health” programme, a programme entitled “National Strategy for the Reproductive Health of Turkmenistan in the period to 2010” is being developed and implemented in conjunction with UNFPA and WHO. The reproductive health strategy includes various programmes such as those on family medicine, anaemia, protection and support for breastfeeding, the reproductive health protection service, and vaccination.

In addition to the baby-friendly hospitals where highly competent specialists provide consultation and inpatient services, paediatric health care and essential medical treatment is provided at inpatient units of paediatric departments at city and district hospitals and dedicated paediatric departments at central and regional multidisciplinary and specialized hospitals. Paediatric units and health centres provide outpatient care and treatment for children. There are four paediatric units and one specialized neuropsychiatric residential hospital for children in Turkmenistan.

Ultramodern clinics and medical centres have been built and inaugurated in the years since independence. Medical insurance, family-based medical care and public health monitoring have become the norm. In 2003-2004 very large diagnostic centres were built and inaugurated in Ashgabat and several regional capitals; their equipment and technical facilities meet the highest international standards. New pharmaceutical firms producing medicines for the health service have been built and are now operating in Turkmenistan.

147. One aspect of the “Health” programme is the prevention of iodine- and iron-deficiency diseases. Accordingly, among preventive measures, overriding importance is attached to providing the population with iodized salt and iron-enriched flour, staple foods for ensuring the health of future generations.

At the initiative of the President of Turkmenistan, the first international UNICEF/Economic Cooperation Organization conference on the elimination of iodine-deficiency diseases was held in Ashgabat in 1994. Pursuant to the recommendations of the conference, the President adopted a decision on the free distribution of iodized salt to the population. In 1996 he adopted another decision (on iodized salt and iron-enriched flour), pursuant to which all boiled salt produced in the country has been iodized since 2003. Pursuant to a decision taken on 14 August 2003 by the paramount representative organ of popular power - the People’s Council - the population will continue to benefit from free electricity, gas, water and table salt until 2020. These and other measures have led to a drastic reduction in iodine-deficiency diseases and had a beneficial impact on the health of women and newborns.

148. The “Vaccination” programme adopted in 1993 is now being successfully implemented. An Interdepartmental Coordinating Committee for Vaccination has been set up at the national level. A Preventive Vaccination Centre has been established at the National Public Health Inspectorate.

Thanks to vigorous preventive vaccination efforts, health-care reform and improvements in the range and quality of medical services available to the public, the inauguration of yearly mass vaccination campaigns focusing on the most widespread infectious diseases in the adult population, and efforts to ensure the widest possible vaccination coverage against childhood diseases, the incidence of the principal infectious diseases more than halved over the period 1995-2000. This trend has been maintained since then.

149. No cases of polio have been recorded in Turkmenistan since 1997. A series of measures to eradicate polio in the country was successfully completed in June 2002, when Turkmenistan was certified as wild polio virus-free. Epidemiological monitoring of post-vaccination complications has been introduced.

150. The Turkmen Government is implementing the Joint United Nations Programme on HIV/AIDS with assistance from the UNDP office in Turkmenistan.

The Act on preventing diseases caused by HIV infection was adopted in 2001. The agencies involved in the prevention, diagnosis and treatment of HIV infection are the Ministry of Public Health and the Medical Industry, health departments and units in the regions and the capital, the National AIDS Centre, regional units for the prevention and control of AIDS, the Turkmen Blood Centre and regional blood banks.

The units for the control of AIDS focus on preventive work. They offer information and outreach on healthy lifestyles and the prevention of HIV/AIDS and drug addiction, in addition to organizing and administering no-questions-asked surgeries and telephone helplines.

All these units have modern computer equipment and the means to conduct diagnostic tests - a system of free, anonymous testing for HIV infection. Turkmenistan currently has 21 diagnostic laboratories capable of testing for HIV infection. No cases of children with HIV/AIDS have been recorded in Turkmenistan.

151. The implementation of the State "Health" programme has led to a major improvement in public water supply. As of 2004, the vast majority of Turkmen towns and villages have water mains for water collection and treatment and the public supply of clean drinking water. New water treatment plants have been built and brought into service in Ashgabat and Balkan, Lebap and Mary regions. To improve the public drinking water supply, more than 20 mini production plants have been built.

On 16 February 2005 a drinking water plant came into service at Archabil near Ashgabat. The plant, which is equipped with state-of-the-art imported equipment, has a projected capacity of 160,000 cubic metres of drinking water or 80 million bottles a year.

152. The "Health" programme now under way in the country includes a series of physical fitness and sports measures designed to fortify the health of the population. There are currently 26 stadiums, 1,010 gymnasiums, 9 swimming pools and a host of sports grounds in Turkmenistan. An Olympic sports complex has been inaugurated, including a stadium, a track-and-field facility, tennis courts and gymnasiums. All stadiums in Turkmenistan have

physical fitness groups in which youngsters participate. Regional, national, school and university competitions are held in various sports, thereby contributing to the development of healthy young people. Pursuant to the Physical Fitness and Sport Act of 7 July 2001, the State guarantees to all citizens the exercise of their right to physical fitness and sports (art. 4).

153. The State Medical Institute oversees training and professional development for paediatricians. The I. Gandhi Ashgabat Medical School, the Turkmenbashi Medical School, the Gurbansoltan-eje Dashoguz Medical School, the Turkmenabad Medical School and the Mary Medical School offer initial and refresher training for other grades of medical workers, nursing staff and paramedics. The number of physicians and other medical workers providing care and treatment to children is in conformity with WHO guidelines.

154. The Turkmen authorities are conducting extensive outreach work to entrench a healthy lifestyle for children. Assisted by the UNICEF office in Turkmenistan, the Ministry of Public Health has introduced a method of interactive teaching and instruction for teenagers on health-care issues and HIV/AIDS prevention. Teachers have been trained to perform this work and relevant technical materials have been developed in the Turkmen language. Voluntary organizations play a significant role in educating young people and parents about hygiene and health care. These issues are covered regularly in television and radio programmes and in the central and local press. Talks and seminars are held with input from experts from WHO and UNICEF, and literature on preventing childhood diseases and on physical training for children is made available to the general public.

155. The ongoing reform of the Turkmen health-care system, the inauguration of major diagnostic and treatment centres equipped with the most up-to-date facilities, the wide-ranging measures to inoculate and vaccinate the population, the businesslike cooperation with international organizations such as UNICEF, UNFPA and WHO, and the growth in prosperity of the population have led to a sharp decline in child and maternal mortality and an increase in life expectancy. In the period 1994-2004 child mortality decreased threefold and maternal mortality sixfold.

### **C. Social security and childcare services and facilities (art. 26 and art. 18, para. 3)**

156. The Turkmen Constitution guarantees to all citizens, including children, social security in the event of loss of ability to work, disability or loss of family provider. Large families qualify for additional support and benefits from public funds (Constitution, art. 34). Social security for children is governed by a system of laws and regulations including the Marriage and Family Code, the Rights of the Child (Guarantees) Act, the National Youth Policy Act, the State Benefits Act, the Pensions Act, the Disabled Persons (Social Welfare) Act, and the Health Protection Act. Social welfare payments for children are based on a standard of living index established by the State. The national policy on the rights and legitimate interests of children and support measures for mothers and children are financed from the State budget and extrabudgetary sources earmarked for specified purposes in accordance with Turkmen legislation.

157. Children's right to State benefits is safeguarded by the Rights of the Child (Guarantees) Act. The childcare allowance prescribed by the State Benefits Act is paid to parents and persons in loco parentis.

An allowance to care for a sick child aged under 14 is payable to one parent for up to 14 calendar days.

The allowance to care for a hospitalized sick child under 7, or a child under 14 who is gravely ill or recuperating from a difficult operation or a serious injury or burn is payable for up to 122 calendar days. The allowance for a child in quarantine in a preschool institution is payable for 14 calendar days.

Under article 187 of the Turkmen Tax Code, State benefits will not be taxable from 25 October 2004.

158. In the event of the death of a family's breadwinner, survivor pensions are paid to each child irrespective of the number of years worked by the deceased parent or parents. Children who lose both parents qualify for a higher pension. Orphans are also entitled to a pension in the event of their adoption.

159. In cooperation with the UNICEF office in Turkmenistan, the Turkmen Government implemented the project "Children in need of special protection" in 2000-2004. This project was aimed at children deprived of parental care and orphans. During the implementation phase, the Ministry of Social Welfare and UNICEF reviewed the situation and made arrangements to support vulnerable families, thus preventing the full-time placement of children in special institutions and raising the standard of living of foster families.

160. The consistent provision of free services and benefits by the Turkmen President and Government, as well as the increase in wages, salaries, pensions, benefits and maintenance allowances, is of decisive importance for the social welfare of families and children. Since early 1992 Turkmen citizens have routinely enjoyed free gas, electricity, drinking water and table salt, which helps to spread the family budget.

By a decision of the paramount representative organ of popular power - the People's Council - dated 14 August 2003, these benefits were extended to 2020. Turkmen citizens pay token charges for public transport, telephone service, utilities, and air and rail travel.

Like the rest of the population, children can avail themselves of free tuition and health care. These and other social welfare measures for children and their families create the necessary framework, in accordance with international standards, for the full physical and spiritual development of children.

#### **D. Standard of living (art. 27)**

161. The right to the standard of living necessary for physical, mental and spiritual development is guaranteed to children in Turkmenistan. Thanks to current law and legal practice, no child either may be or is left without means of subsistence, or without care and

custody. The child's right to an appropriate standard of living is guaranteed by his or her parents or legal representatives, State authorities and administrations, local executives and local governments (Rights of the Child (Guarantees) Act, art. 8).

This standard of living is ensured by social welfare policy, the benefits and free services provided to the people, the sustained growth in family income, and the development of a system of market relations that boosts national prosperity. The average per capita income is roughly US\$ 6,000.

162. Turkmenistan is a vigorously developing State: many of its development parameters exceed the corresponding indices for developed countries. Turkmenistan's per capita gross domestic product is increasing by over 20 per cent a year on average. The authorities are pursuing a wide-ranging programme to construct high-quality, comfortable housing and social, cultural and community facilities; this will help to raise living standards, primarily those of children. The national programme entitled "Strategy for the economic, political, and cultural development of Turkmenistan for the period to 2020" envisages further growth in personal incomes and a wider range of social benefits and services for the population. The implementation of the strategy will ensure a level of living for Turkmen that matches the highest internationally recognized standards.

## **VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance (art. 28)**

163. The provisions of Turkmen educational legislation meet international standards, including the requirements in the Convention on the Rights of the Child. According to article 13 of the Rights of the Child (Guarantees) Act, a child has the right to an education that promotes his or her overall cultural development and the development of his or her intellect, abilities, opinions and sense of moral and social responsibility.

The Education Act of 1 October 1993 guarantees all Turkmen citizens that their constitutional rights to education will be upheld and protected, and lays down the following basic principles for the organization of education in Turkmenistan:

Universal access for each citizen to all forms and types of educational services made available by the State; the equal right of all persons fully to realize their abilities and talents; free provision of educational services in public educational institutions; priority accorded to universal human values; an organic connection with national history, culture, and traditions; the secular nature of education in public educational institutions; the independence of public educational institutions from political parties and other voluntary and religious organizations; integration with science and industry and coordination with educational systems of other countries; flexibility of the education system and its orientation towards the future; and the permanency, continuity and variety of the education system.

164. The following levels of education have been established in Turkmenistan: preschool education, general secondary education, vocational education, higher education, career development and staff retraining, and extracurricular tuition and education (Education Act, art. 11). The mandatory minimum content of core educational programmes, the maximum

amount of study time and the standards expected of students are determined by the Ministry of Education and encapsulated in State education standards that conform to generally accepted international norms.

The principle that children's educational interests must be served as well as possible is enshrined in Turkmen law and reflected and fleshed out in the Regulations on State secondary schools and the Regulations on State higher educational establishments, as ratified by the decision of the President dated 11 August 1998, and in the Regulations on preschool facilities for deaf children, the Model Regulations on special general-education residential schools for mentally retarded children (support schools), and the Model Regulations on special general-educational residential schools for deaf and hearing impaired children, as ratified by the order of the Minister of Education dated 10 March 1998.

Educational institutions in Turkmenistan offer tuition based on the principles of humanism, democracy, national self-awareness and mutual respect between peoples and nations. Teaching aims to satisfy individual educational needs and is based on the principle of protecting the child's interests and views as well as possible.

General secondary education in Turkmenistan is compulsory and free and lasts nine years.

165. The principal language of instruction is Turkmen, the official language. Pursuant to the Language Act of 24 May 1990, the rights of children from ethnic and linguistic minorities to receive education and information in their native tongue are guaranteed and given practical effect. Schools in Turkmenistan offer tuition in Russian, Uzbek and Kazakh. The numbers of children studying foreign languages (English, Turkish, German and French) are increasing.

166. In 1999 the Government approved the draft national programme for the instruction and education of preschool children. The programme was developed on the basis of the Convention on the Rights of the Child. On 1 December 2003 there were 944 preschool establishments in Turkmenistan; they were attended by 129,000 children.

Of the total number of children attending preschool facilities, 3 per cent are aged under 18 months, 21 per cent are aged between 18 months and 3 years, and 76 per cent are aged between 3 and 7 years.

Preschool teaching under the State general-education curriculum starts at the age of 5 in preschool educational institutions, day-care centres for children not attending preschool educational institutions, and various playgroups. These programmes provide children with a general preparation for school.

Preschool children are taught in three languages, namely Turkmen, Russian and English. At gala playschool mornings children recite poems, sing songs in the three languages and enact short plays inspired by favourite fairy tales and other works of folklore.

167. At the end of 2003 there were 12,200 teachers specializing in the education and instruction of children at preschool facilities. Of these teachers, 35 per cent were university



graduates and 55 per cent had a secondary vocational education. Teaching staff for the preschool education system are trained at the Seidi Turkmen State Teaching Institute and three teacher training colleges.

All expenses connected with the maintenance and operation of preschool facilities are borne by the State, with token contributions from parents. Parents bear less than 8 per cent of the cost of maintaining preschool institutions.

168. At the start of the academic year 2003/04 there were 1,705 general-education schools in Turkmenistan. These were attended by 1,018,600 students, with girls accounting for 49.1 per cent of the total.

According to the sample census conducted in 2000, 98.9 per cent of the population aged 15 and over can read and write. For every 1,000 persons aged 15 and over, 92 have tertiary education, 9 have uncompleted tertiary education, 166 have specialized secondary education, 477 have general secondary education, 183 have incomplete secondary education, and 48 have primary education.

Pupil numbers in all classes are growing rapidly and are divided almost equally between boys and girls at all levels up to school-leaving classes.

169. The curriculum at secondary general-education and secondary vocational schools includes study of national and international human rights instruments. A course on the basic principles of the State and the law is taught in schools and highlights the national policy of inter-ethnic harmony, friendship and cooperation between all peoples living in Turkmenistan.

To improve foreign-language teaching techniques, specialized language options, classes and schools have been instituted throughout the country. Children start learning a foreign language at the preschool level and continue their studies in specialized schools and schools with specialized classes. Fee-paying language-learning centres have been opened.

The secondary school system has developed optional studies in most core subjects, thereby enabling schoolchildren to prepare themselves more thoroughly for entry to tertiary education.

170. Turkmenistan is pursuing a targeted policy on vocational guidance and training for young people.

In order to prepare young people for employment, and pursuant to the President's decision to introduce vocational education in general-educational schools, vocational training has been introduced in secondary schools in the academic year 1997/98 for pupils from Year 7 onwards. Pupils can learn skills in 57 occupations at vocational education establishments, enterprises, peasant farmers' associations, and directly in schools. Basic vocational instruction is offered in skills such as handling a motor vehicle, operating a computer, accountancy, operating a sewing machine, and driving a tractor. The Makhtumkuli Turkmen State University and the Turkmen Polytechnical Institute have started international business schools where students in the final years of secondary education learn about marketing, management and computing.

There were 16 secondary vocational and 16 higher educational institutions in Turkmenistan on 1 January 2005. Students of both sexes study 16 specialist trades at vocational secondary schools and 182 specialist trades at higher educational institutions.

171. Secondary vocational establishments offer a broad range of study options, including economics, education, health care, transport and communications. In 2001, some 21,000 people were trained at basic-level vocational establishments, 4,300 at the secondary level, and 16,600 at higher educational institutions.

Teachers are trained at two universities, two teacher-training institutes and three teacher-training colleges. More than 70 per cent of teachers in secondary schools are university graduates.

Enterprises and organizations arrange vocational training for their staff directly. A total of 8,000 people were trained or retrained in 2003. A further 28,300 people pursued studies to upgrade their skills.

172. Turkmen higher educational institutions collaborate with the country offices of international organizations in holding regular seminars, conferences, and creative arts competitions for students on the theme of the human dimension. The legal faculty at Makhtumkuli Turkmen State University, with assistance from the OSCE Centre in Ashgabat, has established a human rights library to enable students to make an in-depth study of national law and international norms on human rights and freedoms, including those of children. The National Institute for Democracy and Human Rights reporting to the President has a Centre for Human Rights and a Centre for Humanitarian Law that are open to the public. Here visitors can consult human rights literature and seek advice.

173. The Turkmen education system makes extensive use of international experience and cooperation. The "Bashkent" Turkish educational centre was inaugurated in Turkmenistan in 1993. It includes 13 secondary and 6 primary schools, 5 computer centres and the International Turkmen-Turkish University founded by presidential decree in August 1994. The university offers an international curriculum in three languages, namely Turkmen, English and Turkish. The most able students are awarded internships in the United Kingdom and Turkey. In the decade since the inception of the "Bashkent" centre, a total of 283 students have obtained school-leaving diplomas from the Turkmen-Turkish schools, and 10,710 students have obtained certificates on completing courses at language and computer centres. Higher educational diplomas have been awarded to more than 460 graduates of the International Turkmen-Turkish University.

174. To develop international cooperation in the educational sphere, on 21 February 2003 the President promulgated a decision enabling Turkmen citizens to study at higher educational establishments abroad. The decision facilitated arrangements for young Turkmen studying abroad. It provides for their fees and return travel to their place of study to be paid for by the State and specifies other benefits in accordance with inter-State and intergovernmental treaties and agreements.

As a result of these measures, a steady stream of Turkmen students and teachers goes abroad to study. As of 2004, there were more than 1,000 Turkmen students enrolled in higher education in the United States of America, the Russian Federation, Turkey, Ukraine, Malaysia, France, Germany and other countries. Turkmen higher educational institutions cooperate fruitfully with universities and institutes in the United Kingdom, France, Germany, Spain, Denmark and elsewhere to improve teaching techniques and exchange experience. In turn, young men and women from other countries pursue their studies in Turkmen institutions.

Every year since 1993, Turkmenistan has, within the framework of academic exchange programmes, cooperated with the American Councils for International Education (ACCELS) and the International Research and Exchanges Board (IREX) in selecting schoolchildren, students and young specialists to pursue their studies in educational institutions in the United States of America.

175. In order to ensure that Turkmen students are represented in international competitions and olympiads on scientific and educational themes, the Turkmen Ministry of Education works closely with various international organizations such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), UNICEF, UNDT, UNEFA, the European Education Fund and the Technical Assistance for the Commonwealth of Independent States (TACIS)/Tempus programme. Turkmen students nearly always win prizes at international competitions. They were awarded the bronze medal at the International Mathematical Olympiad held in Glasgow (United Kingdom) in 2002, and they also brought home bronze medals from the International Mendeleev Competition held in Moscow (Russian Federation) and the International Chemistry Olympiad held in Groningen (the Netherlands), thus indicating their high level of educational attainment and the effectiveness of educational reform in Turkmenistan.

## **B. Aims of education (art. 29)**

176. The aims and objectives of education policy in Turkmenistan are determined by the democratic, law-bound and secular nature of the country's form of government and its adherence to the international commitments of a neutral State in the sphere of generally recognized human rights and freedoms. Education aims to develop a rounded personality on the basis of national and universal human values.

Under the law as it currently stands, the aims of education are defined in the Education Act, the Rights of the Child (Guarantees) Act and model provisions on educational institutions at various levels in the education system. The aim of education is to instil in a child a sense of his or her own worth, public-spiritedness, industry, respect for core human rights and freedoms, and love of country, one's family and the environment.

Article 25, paragraph 2, of the Rights of the Child (Guarantees) Act stipulates that a child's education must promote the blossoming of his or her mental and physical potential and develop his or her personality, creative abilities and talents, aesthetic sense and level of culture. To this end, the State facilitates the publication of textbooks and manuals, children's books, magazines and newspapers, and issues films, videos and television programmes designed to realize these objectives.

177. The system of civil legal education in Turkmenistan aims to prepare students for an active and useful life in civil society and a State governed by the rule of law. In the course of their primary education, pupils acquire rudimentary knowledge of democracy, human rights, the rights of the child and standards of morality. The curriculum at the general secondary level includes instruction in the basic principles of the State and the law. Students develop fairly comprehensive ideas about the world and social ties and relations, and acquire patterns of behaviour of help in participating in problem-solving at levels ranging from everyday family situations to national affairs. Children are educated in a spirit of tolerance, non-violence and friendship between nations.

Councils and other self-governing bodies in schools and in voluntary organizations enable pupils to get involved in decision-making regarding education and recreation, contribute to the development of social experience and introduce minors to the system of social relations.

178. In Turkmenistan there are no prohibitions on or obstacles to receiving an education. This applies to all citizens, refugees and stateless persons without exception. Discipline in schools and tertiary educational establishments is maintained through educational methods, respect for the child's human dignity and the categorical prohibition of corporal punishment.

The Ministry of Education, relevant departments of local government bodies and voluntary organizations carry out regular inspections and provide assistance in organizing the teaching process and maintaining discipline in educational institutions at all levels.

### **C. Leisure, recreation and cultural activities (art. 31)**

179. The child's right to leisure and recreation is enshrined in the Turkmen Constitution, the Education Act, the Rights of the Child (Guarantees) Act, the Physical Education and Sport Act, the Tourism Act, the Applied Arts and Crafts Act, the Libraries and Librarianship Act and other statutes, and in the national programme "Bilim" (Education). Pursuant to articles 3 and 15 of the Rights of the Child (Guarantees) Act, children are entitled to leisure and recreation in keeping with their age and state of health. The State encourages and provides financial support for an extensive network of out-of-school institutions, sports facilities, clubs and other projects to fortify children's health.

Turkmenistan attaches great importance to organized leisure and recreation for children. The best leisure areas are set aside for them and they receive State-subsidized passes to holiday resorts (orphans get free passes). Every year, children's recreation centres, school sports fields and sports and fitness camps in the countryside are open during the school holidays in every region of the country and in Ashgabat.

More than 1,000 children's recreation centres, school sports fields and camps were in operation in 2003.

180. Physical education and sports play an important part in the implementation of the wide-ranging State presidential programme "Health", which is designed to help children and young people to meet physical education targets, to fortify their health and to instil in them a striving for physical improvement. Article 4 of the Physical Education and Sport Act of 7 July 2001 specifies: "The State shall guarantee its citizens the exercise of their rights in the

sphere of physical fitness and sport by creating an appropriate legal, organizational, financial, economic and social framework.” The State is responsible for developing physical fitness and sports infrastructure and ensuring that the public has access to it.

According to data from the National Statistical Institute (Turkmenmillikhasabat), in 2002 there were approximately 7,000 sports facilities in the country, including 37 stadiums, 1,946 gymnasiums, 18 swimming pools and a host of sports fields. These sports facilities employ roughly 8,000 physical fitness instructors, 57 per cent of whom are specialists with a higher-educational qualification in physical education. In 2003, a total of 1.5 million people, or 7 per cent more than in 2001, took part in physical fitness and sports activities. Turkmenistan pays considerable attention to children’s sports. During the winter, spring and summer holidays, schoolchildren take part in “Sunny starts” competitions in chess, draughts, basketball, volleyball, national sports, indoor football, Turkmen wrestling (goresh) and other sports.

Ashgabat and every regional capital has its “Serdaryn saglyk äly”-“Turkmenbashi health trail”. Mass walks and pedestrian relays along these trails are enormously popular with children.

181. Pursuant to article 16 of the Rights of the Child (Guarantees) Act, children have the right to be introduced to the history, traditions and spiritual values of their people and to world culture. They are free to express their artistic, scientific and technical creativity, to participate in the cultural life of society, and to develop their abilities and interests. Children living in Turkmenistan have the right to use what, depending on their ethnic background, is their mother tongue and to observe the corresponding cultural and national traditions and customs.

Turkmenistan has special music schools offering free tuition. Pupils study music from Turkmenistan and other countries and learn to play various musical instruments. In addition to the music schools there are dance and arts schools and workshops in every region and district of the country that instruct children in the relevant disciplines.

The Ministry of Culture and Television and Radio Broadcasting, the National Philharmonic Orchestra, the Academy of Arts and national voluntary organizations hold annual arts competitions and festivals that are hugely popular throughout the country. The “Turkmenin Altyn Asyry” (Golden Age of Turkmenistan) festival features a series of musical competitions such as the “Yanlan Diarym” contest for young people, the “Garashsyzygyn merzhen dyaneleri” (Pearls of Independence) musical competition for young schoolchildren, the “Eizhezhik gyzzhagaz” (Pretty Little Girl) beauty and talent contest for girls, and the “Novruz” festival competitions for national theatre groups. These competitions and festivals take place in stages across the country: district heats, regional heats, and national finals in Ashgabat.

182. There are 8 theatres and 26 museums in Turkmenistan. As a matter of policy, theatre repertoires include performances intended to reveal the profound spirituality of the national character, its tolerance and its respect for the cultures of other nations, in addition to the heroic history of the Turkmens, the deeds of great historical figures, and the national struggle for cohesion, unity and independence.

Regular week-long special events are held to celebrate friendship with the peoples of other countries. In 2004 such events were organized to celebrate friendship with the peoples of Ukraine, the Islamic Republic of Iran, Turkey and other nations. During these events, children

and young people meet with public figures and artists and attend performances, musical recitals, book exhibitions and suchlike. Performing artists from the United States of America, the Russian Federation, the United Kingdom and elsewhere tour in Turkmenistan.

In turn, Turkmen performers tour abroad. Cultural, artistic and scientific exchanges between young professionals from Turkmenistan and other countries help to strengthen cooperation between nations.

183. Pursuant to the Libraries and Librarianship Act of 15 July 2000, all citizens, including children, are entitled to take advantage of the country's library holdings, to borrow printed publications for a limited period, and to avail themselves of other forms of library service.

There are 234 libraries in towns and rural districts across Turkmenistan. The nation's libraries hold a total of 10 million volumes. A total of 537,129 people use library services, and 11,145,151 books are lent every year.

## **IX. SPECIAL PROTECTION MEASURES**

**(arts. 22, 38, 39, 40, 37, paras. (b)-(d), arts. 32-36)**

### **A. Children in situations of emergency**

#### **1. Refugee children (art. 22)**

184. The Turkmen Constitution specifies that the right of asylum in Turkmenistan can be granted to foreign citizens who are persecuted in their home countries on account of their political, national and religious convictions. This constitutional provision was amplified by the Refugees Act of 12 June 1997, the Foreign Citizens (Legal Status) Act of 8 October 1993, as subsequently amended and supplemented, and the Turkmen Nationality Act of 30 September 1992, as subsequently amended and supplemented.

On 12 June 1997 the Turkmen Parliament ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The core provisions of these international instruments were incorporated into the Refugees Act adopted on 12 June 1997, which regulates every aspect of the legal status of refugees, including refugee children.

Article 22 of the Rights of the Child (Guarantees) Act stipulates that a child who is not a Turkmen citizen, and specifically a refugee child present in the territory of Turkmenistan, shall have the same rights and obligations as Turkmen children, unless prescribed otherwise by Turkmen laws and the international treaties of Turkmenistan.

Turkmenistan attaches great importance to its cooperation with UNHCR in coordinating national efforts to protect refugees. UNHCR opened a country office in Turkmenistan in July 1995, since when it has helped the Turkmen Government with refugee-status determination issues and refugees' family and social problems.

185. Pursuant to article 2, paragraph 2, of the Convention, Turkmenistan has taken specific steps in the political, economic and social fields to protect the rights of refugees, including refugee children, as clearly evidenced by the events of 1991-1997, when roughly

20,000 refugees entered Turkmenistan from Tajikistan, Afghanistan, Armenia and other countries. The Turkmen Government assisted them financially, settled them and provided them with all they needed to survive. Refugees who expressed a desire to farm the land were allocated free plots, and in conjunction with the UNHCR office in Turkmenistan the State provided them with farming tools and seed stock. Following normalization of the situation in Tajikistan, more than 7,000 refugees who wished to return home were provided with transport and the opportunity to move their belongings. The Government has made strenuous efforts to help refugees from Afghanistan and Armenia return to their respective homelands. Approximately 1,000 refugees, including refugee children, have stayed on permanently in Turkmenistan, establishing homes and enjoying all the rights of Turkmen citizens. All refugee children in Turkmenistan currently attend school and are covered by public health services.

There are currently no recorded instances of refugee children seeking asylum in Turkmenistan.

186. Pursuant to an agreement between the Turkmen Government and the UNHCR office in Turkmenistan, until 2004 all requests on granting refugee status were handled by the UNHCR office.

The National Aliens Registration Service was established in 2003. The Regulations on the National Aliens Registration Service, as ratified by the President's decision of 21 February 2003, define the Service's functions as the reception, the determination of the legal status and registration of refugees, including refugee children and forcibly displaced children, and the making of arrangements for their voluntary return to their countries of origin.

Issues relating to refugees' rights are also handled by the appropriate ministries and departments, specifically the Ministry of Education, the Ministry of Public Health and the Medical Industry, the Ministry of Social Welfare, the Ministry of Foreign Affairs and the Ministry of Internal Affairs.

187. The Turkmen authorities are conducting extensive outreach campaigns on humanitarian law and the international and national norms governing the rights of refugees and refugee children. These efforts are being undertaken in cooperation with the offices of international organizations accredited in Turkmenistan (UNHCR, IOM, UNICEF, UNFPA, etc.).

The National Institute for Democracy and Human Rights reporting to the President and the UNHCR office in Turkmenistan have jointly set up a Centre for Information and Research on Humanitarian Law Issues. The centre focuses on public education and outreach campaigns.

The centre's cooperative ventures include the joint organization of international and national conferences, training sessions, round-table discussions and educational seminars on human rights, humanitarian aspects of the human dimension, and the domestic and foreign policy of Turkmenistan. The seminars are attended by Turkmen and foreign experts. In July and August 2004, for example, a number of seminars on the theme "International and national standards for the rights of the child and refugee children" were held in Mary, Turkmenabad and Ashgabat for State officials and administrators and members of voluntary organizations coming into contact with refugee children.

## **2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)**

188. By the Constitutional Act of 27 December 1995, Turkmenistan proclaimed itself a permanently neutral State, a status recognized and approved by the General Assembly of the United Nations. Turkmenistan has consistently abided by its obligations not to participate in armed conflicts or blocs or produce, disseminate or deploy within its territory weapons of mass destruction, to observe the democratic human rights and freedoms accepted by the international community, and to build its relations with other States on the principles of equality and good-neighbourliness. Cooperation with the United Nations is a strategic goal of Turkmenistan's foreign policy.

189. Since the country gained independence, neither the Turkmen State nor Turkmen children have been involved in armed conflict. Pursuant to the Conscription and Military Service Act of 25 March 2002, liability to military service begins upon attainment of the age of 18 years. A decision may be taken to call up a citizen who has attained the age of 17 years, should he volunteer to join the armed forces of Turkmenistan.

### **B. Children in conflict with the law**

#### **1. The administration of juvenile justice (art. 40)**

190. The general rules governing the administration of juvenile justice in Turkmenistan are based on the provisions of the Constitution and conform to the requirements of the Convention. They include the equality of all before the law and the courts; the presumption of innocence; the prohibition of torture and cruel, inhuman or degrading treatment or punishment; the State-guaranteed right to receive legal assistance; and the prohibition of the use of evidence obtained in breach of the law. These norms are laid down in the Criminal Code, the Code of Criminal Procedure and the Corrective Labour Code.

The Turkmen Constitution specifies that no one may be subjected to torture, cruel, inhuman or degrading treatment or punishment, and that no one may be subjected without their consent to medical (pharmaceutical or therapeutic) or other experiments (Constitution, art. 21).

In 1992 Turkmenistan acceded to the 1949 Geneva Conventions and in 1999 it acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, thereby establishing firm legal safeguards to protect children against inhumane treatment, including in the administration of justice.

Turkmen law establishes criminal penalties for recourse to threats, blackmail or other unlawful actions when administering justice, and for the assault or bullying by persons conducting an initial inquiry or investigation of suspects, accused persons, victims or witnesses, including minors (Criminal Code, art. 197).



191. The administration of juvenile justice by the ordinary courts is regulated by the laws of Turkmenistan. Judicial power in Turkmenistan is exercised by the courts alone. The Constitution states: "The judiciary is intended to protect citizens' rights and freedoms and such State and public interests as are protected by law." Turkmen judges are independent, subject only to the law, and are guided by their inner conviction.

Turkmen criminal law and law of criminal procedure contain special provisions on procedures for investigating offences committed by teenagers and trying such cases in the courts, and specify appropriate penalties for minors.

192. In order to strengthen legal safeguards for the protection of citizens' rights and freedoms and establish effective legal procedures to protect individuals against unwarranted or unlawful prosecution, the institution of criminal proceedings is subject to the authorization of regional, city and district commissions. These commissions comprise representatives of State bodies and voluntary organizations (Institution of Criminal Proceedings (Procedure) Act of 12 May 2000). This highly effective measure for ensuring the legality of criminal proceedings has special significance for minors, in that first-time juvenile offenders guilty of a minor offence or an offence of intermediate gravity may, if the law so provides, be excused punishment. In such instances, criminal proceedings may not be instituted, proceedings already under way will be dropped, the minor will be absolved from criminal liability and compulsory re-education measures will be applied (Criminal Code, arts. 88 and 89).

193. In the course of an initial inquiry or pretrial investigation, a minor may be called as a witness through his or her parents or other legal representatives. A teacher may be called to attend the questioning of a minor as a witness (Criminal Code, arts. 156 and 159).

The presence of counsel is required in judicial proceedings involving minors (Code of Criminal Procedure, art. 51). The parents and other legal representatives of a minor defendant must be summoned to attend the court hearing, and they must be present in the courtroom and participate in the proceedings throughout the trial (Code of Criminal Procedure, arts. 225 and 255-1). If necessary, a minor must be provided with an interpreter in the course of the initial inquiry, pretrial investigation or trial. Minors have the right to appeal verdicts to a higher court by way of cassation.

As noted above, a minor who commits a lesser offence for the first time may be absolved from criminal liability by the court.

In sparing a minor punishment, the court may decide to place the minor in a reform school or appropriate medical rehabilitative institution. At reform schools minors receive a general secondary education and instruction in some kind of trade. They are maintained and educated at the expense of the State.

194. Article 21 of the Criminal Code specifies that persons who had turned 16 before committing an offence are liable to criminal prosecution. In the case of the most serious crimes, criminal liability begins at the age of 14 years.

Criminal legislation provides for a system of measures applicable to minors. The Turkmen Criminal Code contains a special chapter XIII entitled “Special considerations regarding the criminal liability and punishment of minors”. It lays down the basic principles governing the criminal liability of teenagers, the circumstances in which teenagers may be absolved from liability and the penalties which they may be subjected. Compared with the corresponding norms relating to the liability of adults, those relating to teenagers are less rigorous and more humane. Thus, whereas adult offenders may be sentenced to a maximum of 20 years’ deprivation of liberty for a serious crime and 25 years’ deprivation of liberty for a particularly serious crime, the corresponding maxima in the case of minors are 10 and 15 years.

A juvenile first-time offender guilty of a minor offence may be absolved of criminal liability if it is considered that the ends of correction may be served by compulsory re-education measures. These include a caution; a supervision order addressed to a parent, person in loco parentis or the internal affairs agencies; the obligation to make amends for harm caused; restriction of leisure time or a requirement that the minor behave in a certain way. The latter measure may consist of a ban on visiting certain places, engaging in certain forms of recreation, including the operation of a mechanically controlled vehicle, a requirement to remain at home after a certain hour or restrictions on travel to other localities without permission from a specialized State body. A minor may also be required to return to an educational institution or to find work with help from specialized State bodies (Criminal Code, arts. 88-90).

195. Justice in Turkmenistan is administered by citizens who have attained the age of 25 years, and have a university-level legal education and appropriate experience of life and of work in the law enforcement system. They receive training at Turkmenistan State University, where they work as probationers in the justice system for two years. This system ensures that they have the qualifications and practical training needed for work in the justice system.

## **2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))**

196. Article 21 of the Constitution states that a citizen may be detained and remanded in custody only on grounds specifically indicated in law, pursuant to the decision of a court, and in accordance with statutorily prescribed procedure. In circumstances that admit of no delay, as specifically prescribed by law, duly empowered State bodies are entitled to detain citizens on an interim basis.

Article 32 of the Rights of the Child (Guarantees) Act states that detention, remand in custody or other restriction or deprivation of a child’s liberty are permitted only in the circumstances and according to the procedure prescribed by Turkmen law, and that the child’s parents or legal representatives must be notified without delay.

In Turkmenistan no one may be arrested otherwise than on the basis of a judicial decision or with the approval of a procurator (Code of Criminal Procedure, art. 7). A lawyer is permitted to participate in the case as soon as the minor is detained.

197. Pursuant to the Police Act, the police are entitled to arrest and to convey to and detain in specially designated premises: children without parental care, who may be held until such time as they can be handed over to their legal representatives or dealt with in the prescribed manner, but not for more than eight hours; minors who have committed socially dangerous acts and have not attained the age of criminal liability, who may be held for a maximum of three hours pending their surrender to their legal representatives or transfer to reception and processing centres (Police Act, art. 10, para. 2). News of a child's arrest and place of detention must immediately be communicated by the police to the child's relatives or persons acting in that capacity, or to the administration at the child's place of work or study.

It is prohibited to detain a minor in the same cell as adult detainees, remand prisoners or convicts.

198. Article 96 of the Code of Criminal Procedure specifies that a minor may be remanded in custody as a preventive measure only in exceptional circumstances and if he or she has committed a serious or particularly serious crime. In any event, remand in custody pending investigation of a case may not last for more than two months, or six months in exceptional cases (Code of Criminal Procedure, art. 98).

In accordance with article 411 of the Code of Criminal Procedure, minors remanded in custody are segregated from adults.

199. Article 33 of the Rights of the Child (Guarantees) Act states that placement of a child in a special institution requires a decision by a court. Re-educating children with a view to returning them to a normal lifestyle is the principal aim of placement in a special educational institution. A child in a special educational or medical rehabilitative institution has the right to be treated with humanity, to receive health care and a general secondary or vocational education, and to be visited by and correspond with his or her parents or legal representatives, relatives and other persons.

When placing a minor in a young offenders' institution, the arrangements for detention are determined by the Corrective Labour Code, which takes account of the developing person's age. Pursuant to Corrective Labour Code, minors in a young offenders' institution receive general and vocational education, perform work, and raise their level of culture. Convicts are guaranteed the right to freedom of confession, and ministers of religion have the right and the opportunity of unfettered access to places of detention. Young offenders' institutions have special facilities for the holding of religious rites.

There is one institution for young male offenders in Turkmenistan. Convicted girls - who number only a handful - are detained in women's colonies, but are segregated from adults.

Convicts live in decent accommodation with the requisite sanitation and other services. Young offenders' institutions conduct regular medical check-ups of convicted youngsters and if necessary provide them with specialized medical treatment. Enfeebled teenagers are given extra food and permanently monitored by medical staff (Corrective Labour Code, arts. 74 and 75).

Young offenders are taught according to the model curriculum for general-education schools. In addition, they receive vocational training.

200. By law, young offenders have the right to submit suggestions, requests and complaints to a wide range of organizations and bodies, including the colony administration, the courts, procuratorial bodies, and the central and local authorities. The administration of the correctional institution must examine both written and oral complaints and forward them for appropriate action. Under article 50 of the Corrective Labour Code, suggestions, requests and complaints addressed to a procurator must be forwarded to the procurator within 24 hours and without having been vetted by the correctional institution. The outcome of the examination of the proposals, requests and complaints must be communicated to convicts by recorded delivery mail.

The procurator's office must conduct inspections and supervisory checks to ensure the fulfilment of legal requirements governing the conditions and regime of detention of minors in young offenders' institutions (Corrective Labour Code, art. 11).

During visits to young offenders' institutions, procurators must receive inmates in person, take delivery of the inmates' complaints and requests and use their powers to protect the inmates' rights.

201. Young offenders whose behaviour satisfies requirements and who give a positive account of themselves by their attitude to study and work may be authorized to move around outside the colony without escort or accompaniment, and also to make short visits of up to seven days away from the colony. Time spent by offenders away from a colony counts as part of their sentence (Corrective Labour Code, arts. 77 and 45, note 1).

Young offenders are given incentives to encourage good behaviour, a conscientious attitude to work and study, and active participation in amateur groups and educational arrangements (Corrective Labour Code, art. 65).

Article 3, paragraph 7, of the Criminal Code specifies that punishment and other criminal-law measures applied to offenders must not be calculated to cause physical suffering or to demean individuals.

Pursuant to the Act of 29 December 1999 on the annual amnesty and pardons in honour of the "Gadyr gizhesi" (Night of the Almighty) holiday, the President of Turkmenistan annually accords pardons to offenders who have repented of their crimes, made reparation for injury caused and resolutely embarked on the path to reform. The first persons to be pardoned are minors.

### **3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37)**

202. The death penalty as a punishment in criminal law has been abolished and proscribed in perpetuity by the first President of Turkmenistan, Sapamurat Turkmenbashi (Constitution, art. 20).

Pursuant to Turkmen criminal law, minors may not be sentenced to life imprisonment; they may be sentenced to deprivation of liberty for a maximum of 15 years for particularly serious crimes.

#### **4. Physical and psychological recovery and social reintegration (art. 39)**

203. Educational work is conducted with prison inmates to prepare them for release. The rights and obligations of young offenders are explained to them by the administration of the institution. Children aged under 16 who are released from correctional institutions are sent home in the company of relatives or other persons, or of an officer from the young offenders' institution. Minors released from a young offenders' institution are helped to continue their studies and find work. These matters are dealt with by the local authorities and the commissions for minors' affairs attached to local administrations.

Job placement for youngsters, their everyday living conditions and further study options are supervised by the local law enforcement agencies, which not only monitor the behaviour of young offenders after release, but also help them to resolve their problems, including those of a legal nature.

204. National voluntary organizations are very active in reintegrating into society teenagers who have served their punishment. They monitor, on a regular basis, the subsequent studies and work placement of these teenagers and encourage their participation in community work and physical fitness programmes, all of which promotes the minors' psychological recovery and helps them adapt to normal life.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **1. Economic exploitation, including child labour (art. 32)**

205. Citizens' right to work is guaranteed by article 31 of the Constitution; it includes the right to free choice of employment and nature and place of work, and the right to protection against unemployment. The Turkmen Code of Labour Laws stipulates that every worker, minors included, is entitled to healthy and safe working conditions, to equal pay for equal work without any form of discrimination, and to remuneration not lower than the statutory minimum wage. All working minors have the right to leisure, a right secured by prescribed maximum working hours, weekly rest days, public holidays and commemorative days and paid annual leave.

206. Forced labour is prohibited in Turkmenistan by article 31 of the Constitution. This provision applies to all citizens, including children. Pursuant to article 27, paragraph 1, of the Rights of the Child (Guarantees) Act, the State protects children against all forms of exploitation at work through a variety of legal, economic, social, medical and pastoral arrangements.

The Young People's Right to Work (Guarantees) Act of 1 February 2005 categorically prohibits all forms of exploitation of child labour by anyone whomsoever, including parents.

It is not permitted to employ children to perform work that is hazardous to health or injurious to their physical, mental or moral development. It is forbidden for children to perform work connected with the manufacture or sale of tobacco products or alcoholic beverages. Schoolchildren may not be used during term time to perform agricultural or other work unconnected with their studies (Rights of the Child (Guarantees) Act, art. 27, paras. 2 and 3).

The Code of Labour Laws and the Occupational Safety Act of 1 October 1993 prohibit the employment of persons aged under 18 to perform arduous work, work in hazardous or dangerous conditions, or work underground. It is also forbidden for such persons to carry or move objects weighing more than specified amounts. The current list of types of heavy and hazardous work that may not be performed by persons aged under 18 has been ratified by the Cabinet of Ministers. It is not permitted to use workers aged under 18 to perform night work or overtime or to require them to work on weekends or public holidays.

207. Pursuant to article 19, paragraph 2, of the Rights of the Child (Guarantees) Act, an employment contract may be concluded with a minor who has attained the age of 16 years. A child may be admitted to employment at the age of 15 with the consent of either parent or of the child's legal representative.

The President's Decree of 1 April 2002 extending the employment rights of citizens who have attained the age of 16 called upon all ministries and departments and regional, city and district administrations to develop special programmes to provide employment for persons who have attained the age of 16.

Minors may only be hired after undergoing a medical examination. Thereafter, they must undergo an annual medical check-up until they attain the age of 18.

No direct or indirect restriction of rights or direct or indirect preference in hiring procedures is permitted on grounds of sex, race, ethnic origin, social status, attitude to religion, beliefs or any other considerations unconnected with a worker's professional merits (Code of Labour Laws, art. 16).

208. Shorter working hours are prescribed for workers aged under 18: persons aged between 16 and 18 years work a 36-hour week, and persons aged between 15 and 16 and students aged between 14 and 15 employed in the holidays work a 24-hour week.

In accordance with article 19, paragraph 4, of the Rights of the Child (Guarantees) Act, State bodies create a pool of job vacancies for children. Pursuant to article 12 of the Employment Act of 12 November 1991, local government bodies set enterprises, institutions and organizations annual quotas for the employment of minors of up to 5 per cent of their total workforce, thereby strengthening protection of minors' right to work.

209. Pay, including minors' pay, depends on a worker's individual work contribution, the quality of the work performed, and the rate of pay specified in the employment contract. There is no upper limit on pay. Article 78 of the Code of Labour Laws prohibits any reduction of a worker's pay for reasons of sex, race, ethnic origin or attitude to religion.

Article 9 of the Occupational Safety Act of 1 October 1993 states that employers (management) must introduce modern occupational safety methods and provide working conditions that satisfy health and safety requirements and guard against industrial injuries and occupational disease. Employers (management) must keep workers informed of workplace conditions and occupational safety, and will be held legally liable for any breach of the terms of an occupational safety agreement.

210. Compliance with Turkmen labour laws and occupational safety regulations is monitored by specially empowered State health-care bodies, trade unions, sectoral ministries and departments, and commissions for minors' affairs.

The Office of the Procurator-General and local procurator's offices ensure that national labour laws are duly complied with. To ensure that measures to protect children against economic exploitation are effectively implemented, Turkmen laws and regulations establish appropriate disciplinary, administrative and criminal punishments for persons guilty of such exploitation.

211. Turkmenistan has ratified the following conventions of the International Labour Organization (ILO) and is implementing their provisions: the 1973 Convention (No. 138) concerning Minimum Age for Admission to Employment, ratified on 20 December 1996; the 1930 Convention (No. 29) concerning Forced or Compulsory Labour, ratified on 20 December 1996; the 1957 Convention (No. 105) concerning the Abolition of Forced Labour, ratified on 20 December 1996; and the 1958 Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation, ratified on 20 December 1996.

## **2. Drug abuse (art. 33)**

212. Turkmenistan is taking the necessary measures to advocate a healthy lifestyle, to protect children against the illicit use of narcotic drugs and psychotropic substances, and to control illegal trafficking in such substances.

The State guarantees appropriate assistance to child drug addicts and substance abusers. Pursuant to article 52 of the Narcotic Drugs, Psychotropic Substances and Precursors (Measures to Counter Illegal Trafficking) Act of 9 October 2004, young drug addicts receive appropriate treatment upon request or with the consent of their parents or legal representatives.

The Ministry of Public Health and the Medical Industry, the Ministry of Education the Ministry of Social Welfare and the Ministry of Internal Affairs are taking measures to identify and treat child drug addicts and substance abusers at the earliest stage of drug use.

Voluntary organizations play an active role in counselling children who are experimenting with drugs, and in advocating a healthy lifestyle. They carry out extensive outreach work, organize advocacy campaigns and publish special literature on this question.

213. It is a criminal offence under Turkmen law to involve minors in the production, trafficking, distribution or use of narcotic drugs or psychotropic substances, or to habituate minors to the consumption of alcoholic beverages or the non-medical use of stupeficients.

The commission of such acts by persons with special responsibility for the well-being of children, for example parents, teachers or other persons under a statutory obligation to educate minors is considered an aggravating circumstance (Criminal Code, arts. 155 and 156).

Under the Code of Administrative Offences, it is an offence for parents or other persons to ply minors with alcohol until they become intoxicated, to sell alcoholic beverages or tobacco products to minors, or publicly to exhibit minors in a drunken state.

Minors who, without having broken the law, have been observed to consume alcoholic beverages face community sanctions. Generally speaking, minors who consume alcoholic beverages are placed on a register maintained by local commissions for minors' affairs and appropriate outreach work is conducted with them and their parents. It is prohibited to advertise alcoholic beverages on radio or television or in other mass media in Turkmenistan.

214. A very significant method of preventing drug abuse among minors is voluntary (rather than coercive) outpatient treatment without the need for segregation from the outside world. There are no medical rehabilitative institutions for the compulsory treatment of minor drug addicts in Turkmenistan.

A national programme to combat illegal drug trafficking and assist persons dependent on narcotic and psychotropic substances in the period 2001-2005 has been ratified by decision of the President. As part of the implementation of this programme, the Ministry of Public Health, the Ministry of Education, the Inspectorate of Minors' Affairs, other law enforcement bodies and higher, secondary and vocational education establishments hold regular lectures, round-table discussions, seminars, monthly campaigns and drives to combat the abusive use of alcohol and drugs. These events include the distribution of brochures and booklets and the showing of videos that advocate a healthy lifestyle.

Article 47 of the Narcotic Drugs, Psychotropic Substances and Precursors (Measures to Counter Illegal Trafficking) Act of 9 October 2004 prohibits advocacy for narcotic drugs, psychotropic substances and precursors in Turkmenistan and restricts advertising for medicaments that contain narcotic drugs and psychotropic substances.

215. In 1996 Turkmenistan acceded to various international instruments intended to combat the illegal trafficking of drugs and psychotropic substances. These include the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961; the United Nations Convention on Psychotropic Substances, 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. This has enabled Turkmenistan to integrate into the international system for combating illegal drug trafficking. Turkmenistan has established businesslike relationships on such matters with international organizations and States. The United Nations International Drug Control Programme provides Turkmenistan with appropriate assistance in organizing these activities.



All cities and districts have established focal points for the protection of law and order. Representatives of law enforcement, health care, education and voluntary organizations hold preventive talks with children experiencing problems, organize recreational activities for them, and encourage their involvement in sports and cultural entertainments. The focal points are an effective means of preventing juvenile delinquency.

### **3. Sexual exploitation and sexual abuse (art. 34)**

216. The production and dissemination of pornographic publications, films or other pornographic items that run contrary to the mentality and way of life of the Turkmen people are forbidden in Turkmenistan. The State protects children against all offences of a sexual nature.

217. The unlawful manufacture of pornographic materials for the purposes of dissemination or advertisement, and the unlawful trafficking of printed matter, cinema or video films, images or other items of a pornographic nature are criminal offences (Criminal Code, art. 164).

The following are also offences under the Criminal Code: rape; sexual intercourse with a person aged under 16; sodomy; depraved acts with a minor aged under 16.

Criminal liability is prescribed for enticing minors into prostitution and establishing or keeping a brothel (Criminal Code, art. 134, 135, 138, 139, 140, 143 and 144).

Offences of these kinds are rare in Turkmenistan.

### **4. Sale, trafficking and abduction of children (art. 35)**

218. In Turkmenistan, trafficking, smuggling and abduction of children are atypical phenomena in Turkmenistan and virtually never occur. The State takes all necessary measures to prevent the abduction, trafficking and smuggling of children for any purpose or in any form.

Current criminal law stipulates a penalty of up to 10 years' deprivation of liberty for abducting somebody else's child, and up to 2 years' deprivation of liberty for substituting a child for financial gain or other personal motives (Criminal Code, arts. 126 and 128).

### **5. Other forms of exploitation (art. 36)**

219. Turkmen law protects children against other forms of exploitation injurious to their legitimate rights and interests, including their housing and property rights. It is mandatory to take children's interests, including their property interests, into account in the event of their parents' divorce: child support arrangements provide for the transfer of a portion of the maintenance payments into a child's personal account.

The Young People's Right to Work (Guarantees) Act of 1 February 2005 is intended, in the words of the Act itself, to ensure the rigorous and exact implementation of the Convention on the Rights of the Child, and "of the provisions of the United Nations Convention protecting children against forcible economic exploitation and outlawing situations that might be hazardous, interfere with children's education, be harmful to their health or physical, mental or spiritual development, or interfere with the principle of freedom of conscience". Persons who violate this Act incur liability under Turkmen law.

**D. Children belonging to a national minority (art. 30)**

220. Children belonging to national minorities in Turkmenistan have equal rights irrespective of their descent, sex, race, ethnic background, language, faith and religious beliefs. Pursuant to the Language Act, children belonging to an ethnic or linguistic minority have the right to be educated and to disseminate printed matter and information in their mother tongue, and to embrace their national culture (op. cit., art. 19, para. 1, and arts. 25, 27, 34 and 35).

These provisions of the Constitution and the laws of Turkmenistan are consistently observed. As noted above, there are schools and classes in Turkmenistan in which teaching is conducted in Russian, Uzbek and Kazakh.

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