



**Submission by Human Rights Watch and Turkmen Initiative for Human Rights to the
Committee on Economic, Social and Cultural Rights concerning Turkmenistan
64th Plenary Session
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Summary

This joint submission prepared by Human Rights Watch and Turkmen Initiative for Human Rights focuses on forced evictions and house demolitions in preparation for the 2017 Asian Indoor and Martial Arts Games (AIMAG) which took place from September 17-27, 2017. The submission relates to Article 11 of the International Covenant on Economic, Social and Cultural Rights, and proposes issues and questions that Committee members may wish to raise with the Government. It is based on a [joint report](#) by our two organizations, published in September 2017.¹

For almost two decades, the Turkmen government, in preparation for wide-scale urban renewal and beautification in Ashgabat, carried out expropriation, evictions and house demolitions.² In its Conclusions and Recommendations following the 2011 periodic review of Turkmenistan, this Committee expressed concern “at reports that a large number of forced evictions” took place for the purposes of urban renewal, and urged the Turkmen government “to refrain from forcibly relocating or evicting individuals” and, when such evictions are considered to be justified, they “should be carried out in strict compliance with the relevant provisions of international human rights law,” especially with regard to “adequate legal remedies, adequate compensation, and consultation”.

Since 2012, the mass housing demolitions and violations of property and housing rights intensified in preparation for the AIMAG. During this time, the authorities expropriated land from homeowners, forcibly evicted them, and demolished their houses without

¹ “Turkmenistan: Homeowners Evicted, Denied Compensation,” Human Rights Watch news release, September 4, 2017, <https://www.hrw.org/news/2017/09/04/turkmenistan-homeowners-evicted-denied-compensation>.

² Open Letter to Turkmenistan's President Gurbanguly Berdymukhadmedov, October 25, 2011, https://www.hrw.org/sites/default/files/TURKM%20-%20Ltr.%20to%20President%20Berdymukhamedov%2025Oct2011_0.pdf.

adequate notice, opportunities for effective legal redress, or paying adequate compensation.

Human Rights Watch and Turkmen Initiative for Human Rights documented dozens of cases of forced evictions and demolitions taking place between 2012 and 2017. Most of them date back to 2015 and 2016. We interviewed Turkmen activists and lawyers who were closely monitoring the situation in country, and reviewed relevant national laws, international standards. We compared satellite images depicting several Ashgabat districts before and after “beautification.” We sent a [letter](#) to The Turkmen government outlining our concerns, but never received a reply³.

Background on Turkmenistan

The Turkmen government tightly controls all aspects of public life and systematically denies freedoms of association, expression, and religion. The country is closed to all independent scrutiny. The authorities threaten, harass, or imprison people who question government policies, however modestly. The Turkmen government does not tolerate independent civic activism. The few people who do human rights work do so under the radar and at great personal risk. This makes it extremely challenging to collect information about human rights violations, including those related to forced evictions. This atmosphere also exposes homeowners who try to seek justice for inadequate compensation or other abuses to serious risk of official retaliation.

Abuses in Ashgabat ahead of the 2017 Asian and Martial Arts Games (Article 11)

Full Demolitions

Inadequate compensation

According to Turkmenistan’s Property Law (Article 29), the government may expropriate only “in cases prescribed by law, and in which the owner is provided equal property or compensation in full for the losses caused by the expropriation.” Also, according to Article 27 of the 2013 Turkmenistan’s Housing Code, in case of the seizure of the residential property by the state for public needs, “the owner, family members living with him, and any other persons permanently residing [there] will receive an equivalent residence” or

³ Joint Letter to Turkmenistan’s President Gurbanguly Berdimukhadmedov, July 24, 2017, <https://www.hrw.org/news/2017/09/04/joint-letter-turkmenistans-president-gurbanguly-berdimukhadmedov>.

“compensation in the amount of the value of the demolished dwelling, its auxiliary buildings, other structures and gardens.”

Human Rights Watch and the Turkmen Initiative found not a single case when the homeowners were offered a choice to receive monetary compensation rather than an apartment. Several documented cases also show that in exchange for seized property, the authorities failed to provide “in exchange an equivalent well-equipped alternative living space” (the Housing Code Article 27). In calculating the compensation apartments, the City Housing Fund used incomplete information, taking into account only the meterage of the formally registered property and the number of people who had residence permits [*propiska*] for that property.

In some cases, families consisting of between 10 and 15 people were provided with two or three-room apartments, violating the Housing Code Article 70 Point 3 which sets the minimum living space per person at 12 square meters.

In many of the cases we documented, expropriated homes consisted of a house on a plot of land or an apartment on the first or second story, and outbuildings or additional structures that the family built over time, as their children grew up and had children of their own.

However, in calculating the value of homes, the authorities did not include outbuildings or additional structures, which families built over time and that were integral to the households. These include but are not limited to summer kitchens, bathrooms, saunas, extra bedrooms, or small cottages. In accordance with the Housing Code Article 27, the value of the outbuildings in calculating compensation in the form of an apartment is not accounted for, but if the homeowner chooses monetary compensation, the value of outbuilding is envisaged. Nevertheless, the authorities did not give homeowners the option to choose monetary compensation. The authorities in some cases would claim that the outbuildings were built unlawfully and therefore not subject to compensation. However, since many of the outbuildings had stood on properties for a decade or more, it seems unlikely that municipal authorities had been unaware of their existence. Moreover, it appears that the city authorities had no objections to the outbuildings when homeowners were using them. Several informed sources described the longstanding practice of local officials demanding bribes from homeowners who wanted to build outbuildings.

For example, in 2015, the authorities demolished a house that belonged to a household of three related families (15 people in total) and refused to provide them with adequate compensation. The household had a property which consisted of a main house, an adjacent summer house, kitchen, and sauna. The Ashgabat Bureau of Technical Inventory allegedly refused to register the outbuildings, which had been built by the family over the previous 20 years. In calculating compensation, the City Housing Fund took into account only the main house. The household received a three-room apartment as compensation. The family took it to the prosecutor's office. The office replied to the family claiming that the family had the legal documents only for the main house and they were provided with adequate compensation.

Loss of property title

The authorities provided some families with an apartment exceeding the size of the expropriated property. In such instances, the City Housing Fund demanded the owners pay the difference in price. In one case, the amount reached as high as US\$25,000. Yet Turkmenistan's current economic climate and the lack of a state program to provide affordable loans or mortgages left families without meaningful options. They had to pay the difference or become homeless. After filing a complaint with the prosecutor's office, some were allowed to move in to their new homes before completing the payment, but this resulted in loss of said ownership title to the property until the difference in value was paid in full. In most of the cases we documented, families were given a year to pay the difference back. In one documented case, the family had only six months.

Compensation denied

In 2015, the authorities seized the property where homeowners lived for years and denied them any compensation. The authorities claimed that the homeowners did not have valid ownership and other technical documents (building permit, valid stamps in the title document, etc.).

Poor Conditions in Compensation Apartments

In some of the cases documented, evicted residents received low quality compensation apartments. In one case, in December 2016 an evicted homeowner was forced to sign an agreement to move in to the new apartment without having had the opportunity to see it beforehand. The building's elevator was broken, forcing one of the apartment residents

who had a leg injury to climb the eight flights of stairs for six months after moving in. The apartment also had serious leaks, and when it rained, water seeped through the walls, leading to a buildup of mold.

In another case, in 2013, a family was evicted from their apartment consisting of four rooms for living spaces, two enclosed verandas, a dining room, two bathrooms, a shower room, a kitchen, dressing room, a courtyard garage, and a garden. The authorities gave them a three-room compensation apartment in a building in poor condition. The apartment leaked and there were electricity cuts. There was a constant flooding of sewage, causing a stench.

In some cases, compensation apartments were not finished by the time homeowners were forcibly evicted, forcing the families to rent apartment space in the interim, at their own expense.

Demolition Notification

The Housing Code and the Law on Property stipulates that homeowners may seek legal redress before expropriated property is demolished. However, in cases we documented, the authorities did not provide the homeowners with adequate notification about the demolition plans. As a result, homeowners were not able to exercise their right to challenge the demolition and had difficulty dismantling their property in a timely manner, often resulting in loss of valuable materials.

A lawyer who closely monitored demolitions in Ashgabat told us that residents feared that authorities would interpret requests for official notices as open confrontation, and therefore did not insist on receiving notifications. They were left “living in anxiety not knowing what they would get [in compensation] and when their [homes would be demolished]”.

Partial Demolitions

Ashgabat authorities required the residents to demolish outbuildings in order to standardize the appearance of the city in advance on the 2017 Asian Indoor and Martial

Arts Games.⁴ Most of the outbuildings, but not all of them, were built without permission. The Housing Code's Articles 21-22 allow the authorities to dismantle extensions, outbuildings, gardens, and other properties built to enlarge living spaces if they have not been authorized or received consent from the neighbors affected. The same articles also allow homeowners to seek court approval for such extensions. But in all such cases we documented in Ashgabat, the authorities did not grant the homeowners time to seek such court approval. Nor did they make clear to homeowners the legal basis for the widescale demolitions of home extensions, so that the owners would have the possibility to exercise their right to seek court approval.

In March and April 2015, Ashgabat residents described how during the previous months intense partial demolitions of outbuildings occurred throughout the city. Some of the extensions had been in place for up to 15 years. The authorities did not provide adequate notice, often forcing the residents to pay for demolitions themselves and offering no assistance to clean up their properties after bulldozers tore down the outbuildings.

One family we spoke with had, in 2002, obtained a permit to build out the balcony, to extend their one-room apartment in central Ashgabat. In spring of 2016, authorities forced the family to demolish the extension, without any compensation. As a result, the apartment's market value decreased.

In another example, an Ashgabat resident invested about US\$10,000 in construction of the balcony serving as part of the kitchen in an apartment located right across the AIMAG sports complex. She told Human Rights Watch and Turkmen Initiative for Human Rights that in 2015, the authorities forced her to demolish it without compensation.

Threats, Harassment, Short-Term Detention

Municipal authorities threatened, harassed and detained Ashgabat residents who questioned demands to leave or demolish their property.

⁴ In a letter a municipal official, dated April 2014, a deputy prime minister order to "urgently make changes so that the homes and adjacent territories... throughout the city have an appearance that is fitting for a modern, white-marble city."

For example, in May 2015, the local government representatives threatened a family in Gazha-South district with 15 days in detention if they did not leave their home, slated for demolition, within 12 hours. At the time, the family was still trying to challenge the eviction in the Supreme Court. The family had no choice but to leave the apartment together with their children.

Recommendations

Human Rights Watch and Turkmen Initiative for Human Rights recommend that the Committee ask the government of Turkmenistan:

- When dealing with expropriation/demolition cases, what efforts, if any, did the City Housing Fund Office make to take into account the totality of property expropriated, including unregistered outbuildings which were part of the family's home and property, and also the links among the family members who had residence permits to the other members of the household who did not have residence permits?
- To provide any information about the standards which the City Housing Fund Office uses to measure ties to unregistered property, and any data about the number of families that benefitted from such a process and what the outcomes were. Does such a process exist in law or in practice?
- To provide any information about the process by which the City Housing Fund Office may have sought to establish whether family members who do not have residence permits, but nonetheless had deep ties to, and were bona fide residents of, the expropriated home.
- To provide information about the legal basis for compensation arrangements whereby the only offer made is for an apartment allegedly of higher value than the expropriated property, and in which homeowners are required to pay the difference. Also, to provide information about the legal basis for withholding ownership title to a compensation apartment until the full difference in value is paid.

Human Rights Watch and Turkmen Initiative for Human Rights recommend that the Committee call upon the government of Turkmenistan to:

- Ensure that Ashgabat homeowners and residents who have been forcibly evicted get fair and adequate compensation for the loss of their property and costs incurred due to the forced evictions;
- Immediately take steps to provide Ashgabat residents who were denied compensation, or who were left homeless because of the city's infrastructure and beautification projects, access to an effective judicial mechanism capable of promptly and fairly awarding them their compensation, as well as any other appropriate remedy;
- In light of the widespread nature of demolitions in Ashgabat in the years leading up to the AIMAG, and the likely widespread nature of the abuses, the Turkmen government should adopt legal measures to allow extension of deadlines for appeals of decisions regarding compensation, evictions, and demolitions.