

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/MNG/CO/1)

MONGOLIA

(...)

C. Main subjects of concern and recommendations

(...)

Impunity for acts of torture

9. The Committee is concerned at reports that law enforcement officials and interrogators are not always prosecuted and adequately punished for acts of torture and ill-treatment. This was also referred to by the Special Rapporteur on the question of torture, who stated that “impunity is the principal cause of torture and ill treatment”. The Special Rapporteur concluded that torture persists, particularly in police stations and pretrial detention facilities, and that “the absence in the Criminal Code of a definition of torture in line with the Convention and the lack of effective mechanisms to receive and investigate complaints provides shelter to perpetrators” (ibid.) (arts. 1, 2, 4, 12 and 16).

The State party is urged to bring impunity to an end and ensure that torture and ill-treatment by public officials will not be tolerated and that all alleged perpetrators of acts of torture will be investigated and, if appropriate, prosecuted, convicted and punished with penalties appropriate to the gravity of the crime. The State party should ensure that efficient and independent investigative mechanisms be established against impunity regarding torture and ill-treatment. Article 44.1 of the Criminal Code, which stipulates that “causing harm to the rights and interests protected by this Code in the course of fulfilling mandatory orders or decrees shall not constitute a crime”, should be immediately repealed. The State party legislation should also clearly stipulate that a superior order may not be invoked as a justification for torture.

(...)

Complaints and prompt, impartial and effective investigations

11. The Committee is gravely concerned that since 2002, only one person has been sentenced for inhumane and cruel treatment and that only one person was convicted out of 744 torture-related cases since 2007, therefore creating an

environment of impunity for perpetrators. This was echoed by the Special Rapporteur on the question of torture, who stated that “while a legal framework for victims to make complaints and have them addressed currently exists, this system does not work in practice” (E/CN.4/2006/6/Add.4, para. 41) and that “consequently, victims have no effective recourse to justice, compensation and rehabilitation for torture and other forms of ill-treatment” (ibid., p. 2). The Committee is also concerned that in the aftermath of the 1 July 2008 events, all 10 complaints submitted to the National Human Rights Commission (four of which concern torture) and the 11 complaints submitted to the Prosecutor’s Office were dismissed for lack of evidence (arts. 2, 12 and 13).

The State party should ensure that independent and effective mechanisms to receive complaints and conduct prompt, impartial and effective investigations into allegations of torture and ill-treatment are in place. The State party should address impunity and ensure that those found guilty of committing acts of torture and ill-treatment should be promptly convicted. The State party should take measures to protect complainants, lawyers and witnesses from intimidation and reprisals, in accordance with article 13 of the Convention. The State party should provide information with regard to any investigation carried out into allegations of torture submitted by Mr. Ts. Zandankhuu, who was arrested on 2 July 2008 and taken to the Denjiin Myanga detention centre.

(...)

Conditions of detention

16. The Committee is concerned about conditions of detention in some facilities, such as overcrowding, poor ventilation and heating, inadequate toilet facilities and water supply and the spread of infectious diseases. In addition, the Committee is concerned with ill-treatment such as the mixing of convicted prisoners and pretrial detainees, arbitrary room changes, and prison guards encouraging convicted prisoners to be abusive towards certain detainees. The Committee is also concerned by the special isolation regime consisting of solitary confinement for prisoners serving 30-year sentences, some of whom told the Special Rapporteur on the question of torture that they would have preferred the death penalty to isolation. The Committee is particularly concerned by reports that death row prisoners are detained in isolation, kept handcuffed and shackled throughout their detention and denied adequate food. Such conditions of detention were described by the Special Rapporteur as constituting additional punishments which can only be qualified as torture as defined in article 1 of the Convention (arts. 11 and 16).

The Committee recommends that the State party abolish the special isolation regime and ensure that all prisoners are treated humanely and in accordance with the Standard Minimum Rules for the Treatment of Prisoners (approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977) and the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment. The State party should continue improving conditions of detention in all detention facilities to bring them in line with

international standards. The State party should ensure that prison guards and other officials abide by the law and adhere strictly to rules and regulations. The State General Prosecutor's Office, the National Human Rights Commission and other authorized independent bodies should be allowed to carry out regular and unannounced visits to places of detention.

(...)

Prisoners on death row and the death penalty

19. The Committee is concerned that information on the death penalty is classified as a State secret and that not even the families of executed persons are informed about the date of execution or given their mortal remains. The Committee is also concerned about the fate and conditions of detention of 44 prisoners remaining on death row (arts. 2, 11 and 16).

The State party should render public statistics relating to the death penalty, provide the Committee with information on the 44 persons remaining on death row, should consider commuting all death sentences and should provide relevant information to the families of persons who were executed. The State party should declassify information on the death penalty, and is encouraged to continue its efforts towards its abolition, including by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. The State party should ensure that death row prisoners are treated in accordance with international standards.

(...)

32. The Committee requests the State party to provide, within one year, follow-up information in response to the Committee's recommendations contained in paragraphs 9, 11, 16 and 19 of the present document.

(...)
