

MONGOLIA: FOLLOW UP PROCEDURE TO THE FORTY-FIFTH SESSION OF THE COMMITTEE AGAINST TORTURE

Amnesty International welcomed the Concluding Observations made to Mongolia in November 2010 (UN.doc.CAT/C/MNG/CO/1) and submits this letter for the Committee's consideration to illustrate ongoing areas of concern related to the extracts for follow-up. We focus on paragraphs 9, 11, 16 and 19 and hope that this information is of use to the Committee.

IMPUNITY FOR ACTS OF TORTURE (PARA. 9)

According to the Special Investigation Unit¹ (SIU), the independent investigation agency under the State General Prosecutor's Office, 50 complaints of torture and other ill-treatment by public officials have been received between January and September 2011. The SIU told Amnesty International that 37 of those complaints have been dismissed without charge. Seven cases were "handed over to relevant organizations": Amnesty International has been unable to clarify whether this indicates these cases were dealt with through internal disciplinary channels, or were only handed over without further action required. Of the remaining six cases, two have gone to court with proceedings in one case completed and in the other still ongoing. The State General Prosecutor's Office had dismissed two cases and is reviewing one case. The remaining case is still being investigated by SIU. In the case where judicial proceedings have been completed, no information was provided on the verdict.

However, as with earlier statistics on investigations into reports of torture and other ill-treatment by public officials provided by the government, this response on prosecutions and convictions lacks salient details. Amnesty International notes that whilst government authorities have responded to our requests for information on investigations, prosecutions and convictions of cases involving torture and other ill-treatment by public officials, consistently the information provided is minimal and incomplete.

Furthermore, Amnesty International has noted previously² that statistics provided by the Prosecution Office have differed from figures provided by the Mongolia government during the Universal Periodic Review and that those statistics in turn differed from figures provided in Mongolia's initial report to the Committee.

Without more consistent, reliable and detailed information it remains extremely difficult to monitor

¹ Letter to Amnesty International from the Special Investigation Unit dated 26 September 2011, Ref 1291.

² Mention was made during Amnesty International's presentation at the NGO briefing for the Committee against Torture in November 2010.

Mongolia's progress in ending impunity for acts of torture and other ill-treatment.

Regarding Article 44.1 of the Criminal Code, on 18 May 2011 the Mongolian Government passed a resolution (No. 159) on the "Adoption of the general plan of measures to implement recommendations of the UN HRC in 2011-2014" (hereafter Resolution 159) signed by the Prime Minister and Minister of Foreign Affairs. This document lists 62 recommendations for promoting and protecting human rights which the government plans to implement between 2011 and 2014. It allocates responsibility for taking this work forward to specific government agencies.

Recommendation 10 aims to amend the Criminal Code to define torture as a crime in accordance with the definition in the Convention, including abolishing or revising Article 44.1 of the Criminal Code. The Ministry of Justice and Home Affairs is charged with implementing this recommendation between 2011 and 2012.

Other recommendations in Resolution 159 include recommendation 40 to prevent impunity in cases of torture, being led by the State General Prosecutor's Office and the Ministry of Justice and Home Affairs for implementation between 2011 and 2014; and recommendation 60 to strengthen the Special Investigation Unit of the State General Prosecutor's Office to ensure independent investigations of all allegations of police violence, being led by the State General Prosecutor's Office for implementation between 2011 and 2012. Amnesty International does not have further information on how the implementation of these recommendations is progressing.

COMPLAINTS AND PROMPT, IMPARTIAL AND EFFECTIVE INVESTIGATIONS (PARA. 11)

As of 1 January 2011, the SIU has increased their staff from 24 to 28. However, while there has been some increase in funding for their operations it remains insufficient to carry out their mandate effectively. In particular the SIU has now expanded their mandate to include corruption cases, which has substantially increased the workload. Recommendation 60 of Resolution No. 159 aims to strengthen the SIU so as to enable it to carry out thorough and independent investigations. It is not clear what concrete steps have or will be taken to achieve this.

Amnesty International is unable to provide any update on the case of Ts. Zandankhuu.

CONDITIONS OF DETENTION (PARA. 16)

There have been some improvements in prison conditions in Mongolia, however, special isolation regimes have not been abolished. Prisoners who have had their death sentence commuted to 30-year terms of imprisonment are held in these cells. The Court Decision Enforcement Agency (CDEA), which oversees Mongolia's detention centres, told Amnesty International that isolation cells typically hold one to two prisoners who are given time for exercise and opportunities to meet visitors but that exercise time is shorter and visiting opportunities fewer than for prisoners not held in the special isolation regime. CDEA told Amnesty International that lack of natural light can adversely affect the health of some prisoners or exacerbate existing problems, particularly for those suffering from chronic illnesses.

Under Resolution 159 recommendation 18, the Ministry of Justice and Home Affairs and the State

General Prosecutor's Office are charged with improving prison conditions and bringing them into line with the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners. This recommendation is to be implemented between 2011 and 2014.

The intention to set up a National Preventative Mechanism (NPM) and ratify the Optional Protocol to the Convention against Torture is included in Resolution 159 under recommendation 6 and is being led by the Ministry of Justice and Home Affairs. However, progress on implementing this recommendation appears to have stalled since last year while the Ministry of Justice and Home Affairs continues to discuss the structure, organisation and functioning of ministerial working groups tasked to take this forward.

PRISONERS ON DEATH ROW AND THE DEATH PENALTY (PARA. 19)

Any information on the death penalty continues to be classified as a State Secret under the Law on State Secrets and the Law on the List of State Secrets. Bodies of executed prisoners are not returned to families. The courts continue to hand down death sentences but the number of death sentences passed is also classified. Under Resolution No. 159 recommendation 5 is to declassify death penalty sentences which have been imposed since 1990 with the aim of providing the families of those who were executed with information on their relatives. This work is being taken forward by the Ministry of Justice and Home Affairs and the Office of National Security between 2011 and 2012. The Ministry of Justice and Home Affairs anticipates a one-off de-classification whereby the information would be provided only to the families. The government has not yet decided exactly what information will be shared with the families.

Amnesty International has not been able to confirm how many, if any, people are still on death row since the President announced in January 2010 that he would commute the death sentence for all those who appealed to him.

There has been no progress towards the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights during the spring session (March to June) of the State Great Khural (Mongolian Parliament). Amnesty International understands that the ruling Mongolian People's Party (formerly the Mongolian People's Revolutionary Party) requested more time to consider their position at the party level before the issue could be decided in Parliament. The parliamentary session ended without any further progress being made. The autumn parliamentary session began on 3 October but it remains unclear if there will be any progress during this session.