



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues in relation to the second periodic report of Mongolia*

Articles 1 and 4

1. With reference to the information provided in paragraph 18 of the State party's report (CAT/C/MNG/2), please indicate whether the penal legislation of the State party contains a definition of torture that covers all the elements contained in article 1 of the Convention. Please also provide information on whether torture is a separate offence in national legislation punishable by penalties commensurate with its gravity, in line with article 4 of the Convention.

Article 2¹

2. In relation to paragraph 14 of the State party's report and in the light of the Committee's previous recommendations (see CAT/C/MNG/CO/1, paras. 8 and 10),² please provide information on:

(a) Measures taken to ensure that all detainees are afforded all fundamental legal safeguards from the outset of their detention in accordance with international standards, including the right to be informed of the reasons for their arrest, to have access to an independent medical examination free of charge, to notify a family member or other appropriate person of their own choice, to have prompt access to a lawyer of their choice and if necessary to legal aid, to be brought promptly before a judge and to have the lawfulness of their detention reviewed by a court;

(b) The number of pretrial detainees, including those detained without court orders, and the number of persons placed under custody through administrative procedures;

* Adopted by the Committee at its fifty-sixth session (9 November-9 December 2015).

¹ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

² Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.



(c) The estimated needs and the budgetary and human resources allocated to legal aid centres, particularly in rural areas.

3. With reference to the Committee's previous concluding observations (paras. 9-10), please provide information on:

(a) Measures taken to end impunity and ensure that torture and ill-treatment by public officials, including the excessive use of force by police, are investigated, perpetrators are prosecuted and those found guilty are punished with penalties appropriate to the gravity of the offence;

(b) Whether the State party has introduced legislation in line with article 2 (3) of the Convention, which clearly stipulates that an order from a superior officer may not be invoked as a justification for torture.

4. In the light of the Committee's previous recommendations (para. 12), please provide updated information on the National Human Rights Commission, especially on:

(a) Measures taken to strengthen the independence and capacity of the Commission, including through the allocation of human, financial and material resources, in order to enable it to properly discharge its obligations under the Convention;

(b) Measures taken to ensure that the process for appointing members to the Commission's governing body is transparent and involves comprehensive and open consultations, including with civil society, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(c) Whether the Commission is able to investigate allegations of torture and recommend measures of redress and rehabilitation in appropriate cases;

(d) Whether the Commission is involved in conducting awareness-raising campaigns on human rights issues for the general public.

5. In the light of the Committee's previous recommendations (para. 19), please provide information on the exact number of persons sentenced to death (including the 44 persons who were on death row at the time of the consideration of the State party's initial report), the crimes committed, the date of their judgement and the time spent in detention since then.

6. Please provide updated information on the arrest and detention, on 13 April 2012, of former President of Mongolia Nambaryn Enkhbayar and on whether he has been afforded all fundamental legal safeguards since his arrest.

7. With reference to the Committee's previous recommendations (para. 24), please provide updated information on the harmonization of legislation and improvements to the legal framework for juvenile justice in line with relevant international standards. Please also provide updated information on any measures taken to establish specialized juvenile courts, to separate detained children from adults in all circumstances and to use pretrial detention only in cases prescribed by law and as a measure of last resort.³

8. With reference to the Committee's previous recommendations (paras. 20-21), please provide updated information on:

(a) Measures taken by the State party to combat violence against women, including rape, domestic violence and sexual harassment;

³ See A/HRC/19/61/Add.3, para. 76 (k).

(b) Whether national legislation has been amended to criminalize marital rape and sexual harassment. Please also indicate whether the State party has taken measures to include men and boys as victims in the definition of rape;

(c) Whether the State party is effectively implementing existing laws in the area of domestic violence and strengthening prevention activities and protecting victims, including through the establishment of protection facilities in remote areas;

(d) Steps taken to ensure that victims of domestic violence, including spousal abuse, have access to justice, assistance, protection and redress, including in rural areas;

(e) The number of complaints of, investigations into and prosecutions of perpetrators for cases of violence against women and their outcome.

9. In relation to the information contained in the State party's report and in the light of the Committee's previous recommendations (para. 21),⁴ please provide information on:

(a) Steps taken to enact comprehensive anti-trafficking legislation;

(b) The prosecution, conviction and sentencing of traffickers, including law enforcement officials, and whether adequate compensation and full rehabilitation have been provided to victims, disaggregated by age, gender and ethnicity. In addition, please indicate whether trafficking in persons is prosecuted under article 113 of the Criminal Code;

(c) Measures taken to prevent trafficking, to ensure the protection of victims and witnesses during all stages of the judicial process and to ensure that all victims of trafficking have access to free legal aid;

(d) Steps taken to increase international, regional and bilateral cooperation against trafficking.

10. With reference to the Committee's previous recommendations (para. 26), please provide information on:

(a) Measures taken to strengthen the legal provisions in relation to the rights of persons with disabilities, including persons with psychosocial disabilities;

(b) The establishment of any monitoring and oversight mechanisms for places of hospitalization;

(c) Steps taken to replace the frequent use of hospitalization with alternative treatment options;

(d) Measures taken to increase the number of professionals specialized in working with persons with mental illnesses and disabilities during the period under consideration.

Article 3

11. In relation to the information provided in paragraphs 32 and 33 of the State party's report and in the light of the Committee's previous recommendations (para. 13), please provide information on:

(a) Legislative, judicial and administrative measures taken since the consideration of the State party's initial report to comply with obligations under article 3 of the Convention, including any amendments to legislation that deals with the expulsion,

⁴ See also CCPR/C/MNG/CO/5, para. 21.

deportation or extradition of foreign citizens, and whether appeals to courts against expulsion, deportation or extradition have a suspensive effect;

(b) The number of persons who have been expelled, deported or extradited since the consideration of the State party's initial report and to which countries;

(c) Measures taken to accede to the Convention relating to the Status of Stateless Persons, the Convention on the Reduction of Statelessness and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Articles 5, 6 and 7

12. Please provide information on whether the State party has rejected requests from another State for extradition of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. Please provide information on any cases that have reached trial and, is available, their results.

Article 10

13. With reference to the information provided in the State party's report, please provide information on:⁵

(a) Training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) organized for public officials and medical personnel dealing with detainees and all professionals involved in the documentation and investigation of torture.⁶ Please specify whether and how the impact and effectiveness of this training have been assessed, including the number of cases of torture documented by doctors dealing with detainees;

(b) Training for law enforcement officials on how to exercise their duties, including on the use of force and the use of equipment that is appropriate to the type of behaviour they deal with. Please, also indicate whether the police have received specific training on the Code of Conduct for Law Enforcement Officials and on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(c) Training to enable public officials to become fully familiar with applicable relevant legal provisions and aware of all forms of violence against women so as to adequately respond to such cases;⁷

(d) Training for law enforcement officials, investigators and prosecutors on combating trafficking in human beings;

(e) Training for law enforcement and immigration officials on international human rights law, in particular the Convention against Torture, with regard to the principle of non-refoulement. Does the State party assess the merits of each individual case when determining its non-refoulement obligations?;

(f) Any new interrogation rules, instructions, methods and practices, as well as arrangements for the custody of persons subject to any form of arrest, detention or imprisonment that may have been introduced since the consideration of the State party's initial report, as well as the frequency with which they are reviewed, with a view to preventing any cases of torture or ill-treatment.

⁵ See also A/HRC/19/61/Add.3, para. 76 (p) and (q).

⁶ See CCPR/C/MNG/CO/5, para. 15.

⁷ Ibid., para. 18.

Article 11

14. With reference to the Committee's previous recommendations (para. 16), please provide information on:

- (a) Whether the special isolation regime has been abolished;
- (b) Measures taken to ensure that prison guards and other officials adhere strictly to rules and regulations and act in conformity with the provisions of the Convention, including the obligation to separate convicted prisoners and pretrial detainees;
- (c) Steps taken to increase the use of non-custodial measures;
- (d) The establishment of a national preventive mechanism in line with the Optional Protocol to the Convention against Torture;
- (e) Measures taken to improve the conditions of detention in all places of deprivation of liberty,⁸ including measures to reduce and ultimately eliminate overcrowding.⁹

Articles 12 and 13

15. In relation to paragraphs 121 and 131 of the State party's report and in the light of the Committee's previous recommendations (paras. 9 and 11), please provide information on:

- (a) Independent and effective mechanisms established by the State party to receive complaints and conduct prompt, impartial and effective investigations into allegations of torture and ill-treatment by law enforcement officials;
- (b) The number of complaints relating to torture and ill-treatment allegedly committed by police officers and the outcomes of the consequent investigation of such cases by the Independent Authority against Corruption;
- (c) Detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on related investigations, prosecutions, convictions and on the penal or disciplinary sanctions applied;
- (d) The status of the 50 complaints of torture and ill-treatment by public officials received by the Special Investigation Unit between January and September 2011;
- (e) Measures taken to protect complainants, lawyers and witnesses from intimidation and reprisals.

16. With reference to the Committee's previous recommendations (para. 11) please provide information on:

- (a) Any investigation carried out into the allegations of torture submitted by Ts. Zandankhuu, who was arrested on 2 July 2008 and taken to the Denjiin Myanga detention centre, and the outcome;
- (b) Updated information on any subsequent measures taken by the State party in the context of the events that took place on 1 July 2008, given that charges against all but four police officers prosecuted for human rights violations during the events were dropped

⁸ See CAT/C/MNG/2, paras. 102-103.

⁹ See also CCPR/C/MNG/CO/5, para. 16.

for lack of evidence and that no one has been convicted to date. Please indicate whether more individuals have received compensation in the context of these events.

Article 14

17. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on redress, rehabilitation and compensation measures taken in relation to cases of torture and ill-treatment that have been ordered by the courts since the consideration of the most recent periodic report, including the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Furthermore, please also indicate what kind of rehabilitation programmes are provided to victims and whether they include medical and psychological assistance.

Article 15

18. With reference to the Committee's previous recommendations (para. 18), please indicate the specific measures taken by the State party to ensure that statements and confessions obtained under torture are not used as evidence in judicial proceedings and that they are invoked only as evidence in proceedings against the person accused of torture or ill-treatment. Please also provide information on the number of cases during the period under consideration in which statements and confessions made under torture were rejected by the courts and the number of cases in which such evidence has been used against the persons accused of torture. Please indicate if video and audio monitoring and recording of all interrogations have been introduced in all places where torture and ill-treatment are likely to occur. Please also indicate whether the State party provides the necessary financial, material and human resources to that end.¹⁰

Article 16

19. In the light of the Committee's previous recommendations (para. 22), please provide updated information on efforts made to monitor, address and combat all forms of forced labour and to criminalize employers who exploit child labour and bring them to justice.

20. With reference to the Committee's previous recommendations (para. 23), please provide information on specific measures taken by the State party to explicitly prohibit the use of corporal punishment against children in all settings, including schools, children's institutions and in the home, as it accepted to do within the framework of the first cycle of the universal periodic review.¹¹ Please, also inform the Committee of any awareness-raising campaigns on the harmful effects of corporal punishment and any professional training activities on alternative non-violent forms of discipline.

21. In the light of the Committee's previous recommendations (para. 25), please provide updated information on steps taken to establish a comprehensive legal framework to prevent torture and ill-treatment and to ensure the protection of vulnerable groups, including persons with HIV/AIDS and lesbian, gay, bisexual, transgender and intersex persons, in line with the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties. Please also provide information on any measures taken to establish policing, enforcement and complaints mechanisms to ensure prompt, thorough and impartial investigations into allegations of all acts of violence and abuse against such persons and bring the perpetrators to justice.

¹⁰ Ibid., para. 14.

¹¹ See A/HRC/16/5.

Other issues

22. Please provide updated information on measures taken to respond to any threats of terrorism. Please describe how those anti-terrorism measures comply with human rights safeguards in law and in practice and how the State party has ensured that those measures do not violate its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please also describe the relevant training given to law enforcement and court officials and provide information on the number of persons convicted under such legislation, the legal safeguards and remedies available to persons subjected to anti-terrorism measures, whether there are complaints of non-observance of international standards and the outcome of those complaints.
