

PREPARATION OF SUBMISSION, CONSULTATION PROCESS:

1. This submission was prepared by a joint effort of the Law Center, the Human Rights Centre, the Ecology Centre and the Mongolian Men's Association.¹ The submission was discussed by general consultation meetings at the Human Rights NGO Forum (hereinafter the HR Forum)².
2. The submission will discuss the implementation status of recommendations related to joining and ratifying the optional Protocol of the Convention against Torture (14); the recommendation to ratify the II Protocol of ICCPR (17); and the recommendation to join the Convention on Protection of All Persons from Enforced Disappearance.

POSITIVE ACHIEVEMENTS:

3. The ICCPR II Optional Protocol was ratified and went into effect on June 13, 2012.
4. GoM has submitted the draft laws ratifying the Optional Protocol to CAT and the Convention on the Protection of All Persons from Enforced Disappearance to SGH on July 8, 2014.

IMPLEMENTATION STATUS BY EACH RECOMMENDATION

84.95: To strengthen the Special Investigation Unit of the State General Prosecutor's Office to ensure thorough and independent investigations of all allegations of police violence (Canada):

5. The fact that the body responsible for investigating torture crimes was dissolved evidences the back-peddalling of the Government from commitments made before the international community.

Evidence 1: The State Great Hural (SGH - Parliament) in January 2014 voided Clause 10.45 of the Law on Prosecution and by SGH Resolution #22 transferred the job descriptions, budget, assets and technical equipment of the Investigation Unit of the State General Prosecution Authority (SGPA) to the Anti-corruption Agency. This transfer of authority of the SGPA Investigation Unit to the Central Intelligence Office, has eliminated the independent investigation mechanism. While there is reportedly some existence of a SGPA Order explaining the investigative lines of duty, there has been no clear communication of the changes to the public.

Evidence: 2 “...Anti-corruption agency on the night of July 29, 2014 put in detention suspects T and others in the Tuv aimag Detention Centre. The Chief of the Anti-corruption Agency, Commissioner U.E sent an official letter (#06/6444) on July 31, 2014 to Ts.O, chief of Unit 461 of the CDEA³. The official letter said “to refrain from allowing visits of defense lawyers to T and 3 other suspects pending arrival of lawyer contracts.”⁴ This act is interpreted by the lawyers as a violation of the right of any subject detained for any reason to receive visitations from outside and to see the lawyers without restriction and is therefore a form of torture. Accordingly a request to hold the AA official

¹In writing the NGO report team has employed the following information sources: meetings with lawyers who represent the state in court proceedings, website of the General Court Administration, 13th Annual Human Rights Status Report of NHRC, research data produced by human rights NGOs, publications of Amnesty International Mongolia.

²Human Rights NGO Forum discussions held on July 25, August 22 and September 4, 2014..

³CDEA –Court Decision Enforcement Agency

⁴ www.news.mn нийгэм булангаас хүлээн авч үзнэ үү

accountable was filed. However, due to the lack of designated investigation authority the Capital City Prosecution filed a complaint with the CDEA.

RECOMMENDATION: Re-institute the independent investigation body authorized to investigate torture crimes:

84.72: Pay due attention to the implementation of recommendations made by the Special Rapporteur on Torture (Kazakhstan):

6. Suspects and convicts are subjected to torture and other cruel, inhumane or degrading treatment in the form of imprisonment in security facilities located far from their homes (45km-230km distance), often in other provinces, and then they are moved from one detention to another detention centre resulting in psychological stress.

Evidence 3: We have been in detention under investigation for crimes against the state since September 13, 2013. We have been scattered around in detention centres in Darkhan (230km), Tuv aimag (45km) Zuunkharaa soum of Selenge aimag (220km).⁵ However, the investigation is centered in Ulaanbaatar. I was personally detained in 113-120 (km?) from my residence in Zuukharaa soum of Selenge aimag then was moved to Tuv aimag detention centre 45km from UB. Visitations by family members were contingent upon a permit issued by the investigating officer, which meant permission for outside visitations depended upon the officer's mood. Also, being detained in a remote facility means extra costs are incurred by family members which adds additional stress. The conditions of lighting in the cell were poor, which resulted in the need to change my prescription glasses.⁶

RECOMMENDATION: Urgently create a national mechanism for the prevention of torture and other cruel, inhumane or degrading treatment and punishment.

84.71: Establish awareness-raising programmes for law enforcement forces aimed at preventing torture and other cruel, inhumane or degrading treatment (France):

7. There are no programs or financing to prevent torture or other cruel, inhumane or degrading treatment through the education of law enforcement and other public officials. The continuing education curriculum of lawyers and judges does not include the prevention of torture.
8. Health, education, and defense ministry education curriculums do not include programs on the prevention of torture.

RECOMMENDATION: Approve education curricula and budget directed at preventing torture and other cruel, inhumane or degrading treatment for use in law enforcement and other relevant public offices and agencies.

84.18, 84.19, 84.20, 84.21, 84.22: Amend the relevant legislation to bring the definition of torture into line with the Convention against Torture

⁵There are sufficiently large detention centres available in Ulaanbaatar.

⁶Evidence given by detainee Ts. Munkhbayar, environmental activist

9. There is some progress being made in the reform of the criminal justice framework. However, most of the reforms are still in draft form and have not been legally codified. Therefore the implementation of the recommendation is dependent on whether the SGH will pass the law as it was drafted.

84.18: Adopt legislation to prevent and end all forms of corporal punishment, in accordance with the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment:

10. The draft Law on Crime prepared within the framework of the criminal law reform includes the recommended clause criminalizing corporal punishment.

Evidence 4: During 2013-2014 complaints were filed against teachers for beating children from 18 months to 9 years of age for not doing homework or not yielding to the demand to behave. However, not a single teacher was held accountable based on the pretext of being in psychological stress.

RECOMMENDATION: Urgently develop a legal framework for criminalizing and penalizing corporal punishment.

New issues which emerged during the reporting period:

11. Mongolia is not conforming with its obligations under Article 3.1 of CAT which stipulates, “No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”.

Evidence 5: Chinese citizens, N. Tulguur, who held a UN refugee certificate and had the right to reside in Mongolia until June 16, 2014 and, D. Dalaibaatar, who had a valid student visa and was waiting for the UN Refugee Office to decide on his application to obtain refugee status were both secretly deported to China on May 13, 2014. They were Chinese citizens of Mongolian ethnic minority origin.⁷

RECOMMENDATION: Abide by and implement Article 3.1 of CAT

84.3, 84.4: ... *make the declaration provided for in article 22 of the Convention against Torture*

12. No measures were taken to implement this recommendation.

RECOMMENDATION: **Make the declaration provided for in article 22 of the Convention against Torture.**

84.7, 84.8, 84.13, 84.63, 84.65, 84.67, 84.68, 86.10, 86.11: Implementation of recommendations related to abolishment of capital punishment.

⁷ Ethnic Mongolians from China Tortured and Secretly Deported from Mongolia: "Impunity Must End", Notes from the World of Silenced Voices, enclosed.

13. The Optional Protocol II ICCPR came into effect on June 13, 2012. There have been no executions reported in the past four years of the reporting period.⁸

84.9, 84.10, 84.11, 84.12, 84.66, 84.68, 84.70, 86.10: Take the necessary steps to remove the death penalty from Mongolia's justice system.

14. In order to eliminate capital punishment Mongolia has ratified the II Optional Protocol of ICCPR. The Law on Crime developed within the framework of criminal justice reform does not include a clause on capital punishment, however, the current Criminal Code contains a clause on capital punishment.

RECOMMENDATION: Eliminate the capital punishment clause from the current Criminal Code.

86.10, 86.11: 86.11. Remove the classification of information on the death penalty as a State secret, provide statistics and information related to death sentences and executions, and provide the families of those executed with information on their relatives detention and sentencing.

15. No action of any kind was taken to declassify death penalty execution information with the purpose of providing information to the families and relatives.

84.4: Ratify the Optional Protocol to the Convention against Torture, and the International Convention for the Protection of All Persons from Enforced Disappearance.

16. The draft law on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance was submitted to Parliament on July 8, 2014.

⁸ Statistical data taken from www.judoinstitute.mn website.