



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

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**Consideration of reports submitted by States
parties under article 19 of the Convention**

Initial reports of States parties due in 2003

Mongolia*, **

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** Annexes to the present document are available with the Secretariat of the Committee.

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I. Introduction

1. The present report has been elaborated on the basis of article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified on 2 November 2000 by the State Great Khural of Mongolia. It covers the years from 2000 through 2007.
2. The present report has been prepared by the Ministry of Justice and Home Affairs along with the General Prosecutor's Office, the Court Decision Enforcement Authority and the General Police Department of Mongolia.

II. General information

3. According to the Constitution of Mongolia (1992), human rights and freedoms are the cornerstones for State policy and the Constitution itself was declared in harmony with internationally accepted democratic principles.
4. Since the adoption of the New Constitution of Mongolia, measures such as those to provide human rights and freedoms in Mongolia, to enhance State responsibility before its nation and to develop the system of law enforcement and judicial organs have been taken step by step.
5. In order to develop the procedures related to limitation of human rights, search and arrest of suspects and the legal ground of supervision and liability thereto, moreover aiming at establishing special regulation in respecting the other's rights and freedoms and to conduct public order, the Criminal Code, Criminal Procedural Code, Civil Procedural Code, Court Law, Law on Prosecution Authority, Court Decision Enforcement Law and Law on Advocacy were revised respectively and enacted in 2002.
6. Article 10 of the Constitution of Mongolia reads as follows "Mongolia shall fulfil in good faith its obligations under international treaties to which it is a party. The international treaties, to which Mongolia is a party, shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession."
7. The above clause demonstrates that bilateral and multilateral human rights instruments to which Mongolia has acceded or ratified, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, play an important role in the legal system of Mongolia and that the issue of human rights and freedoms in Mongolia is regulated by the national legislation and the international instruments to which Mongolia is a party.
8. Paragraph 2 of article 1 of the Constitution of Mongolia states that the supreme principles of the activities of the State shall be to give effect to democracy, justice, freedom, equality and national unity and respect of law while paragraph 2 of article 14 reads "no person shall be discriminated against on the basis of ethnic origin, language, sex, social origin and status, property, occupation and post, religion, opinion or education". Also, article 19 defines the internal function of the State in human rights protection as to be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, to fight against violation of human rights and freedoms and to restore rights which have been infringed.
9. According to the revised Court Law of 2002, a court is a guarantor of justice, human rights and freedoms and legitimacy, and a judge shall be independent and subject only to the Constitution of Mongolia and other legislation.

10. The Administrative Procedural Code of Mongolia was issued by the State Great Khural of Mongolia in 2002. The principal aim of this Code is to protect the human rights and freedoms and the legitimate interest of a person from any illegal or arbitrary actions by the administration and public servants, to restore infringed rights and to support a fair legal order. On the basis of this Code, an Administrative Case Court has been functioning since 2004.

11. The Prosecution Authority, as stated in the Law on Prosecution Authority of 2002, is an independent organization, whose basic duty is to ensure the overall implementation of the Criminal Code throughout the territory of Mongolia; it functions on behalf of the State and participates in the execution of judicial power.

12. Even though cases of inquiry and investigation into certain incidents involving the cruel, degrading or inhuman treatment of suspects have rarely occurred, the fact is that under previous legislation, any complaints and information regarding actions by police officers that were received and handled exclusively by the police authority eventually lead to misleading or unjust rulings.

13. In order to suppress such inhuman and cruel incidents and to promote human rights, the Criminal Procedural Code of 2002 has assigned to the Investigation Unit, a newly established body at the General Prosecutor's Office of Mongolia, the duty to receive the complaints, information and cases regarding any cruel and inhuman actions by the police, judiciary and prosecutors. The Unit has commenced its activity on 11 September 2002, on a basis of legislation such as the Law on Prosecution Authority, resolution No. 47 of the State Great Khural, and resolution No. 179 of the Government, and deals with the investigation of crimes committed by police staff, inquirers, investigators, prosecutors or judges, pursuant to paragraph 2 of article 27 of the Criminal Procedural Code of Mongolia. According to the Law on Enforcement of Decision regarding Compulsory Arrest of the Suspect and the Accused, and pursuant to the Package of Laws enacted within the framework of the legal reforms of 2002, authority over the Detention Centres, which was previously exercised by the police, has been transferred to the Court Decision Enforcement Authority. This is a legal attempt to separate the Detention Centres from those inquirers, investigators and other executive police officials who conduct enforcement activities, with a view to protecting citizens as much as possible from torture, cruel and inhuman treatment.

14. One of the most notable reforms ever made in the protection of human rights was the adoption by the State Great Khural of Mongolia on 7 December 2000 of the Law on the National Human Rights Commission, establishing an independent organ for dealing with human right issues in Mongolia. With the appointment of its members by the State Great Khural in February 2001, the National Human Rights Commission (hereafter referred to as "NHRC") officially commenced its activities. The NHRC is an independent entity whose function is to supervise the implementation of the human rights and freedoms clauses as stated in the Constitution of Mongolia, in other laws and in international agreements and to protect and promote human rights. According to this Law, citizens who consider that economic entities, public officials or individuals have violated their rights and freedoms, as guaranteed in the Constitution of Mongolia, other laws and international conventions, may complain, individually or collectively, to the Commission.

15. The Commission enjoys a certain competence, even during states of emergency, with respect to initiating proposals on human rights and transmitting orders and recommendations to other entities.

16. In order to support, develop and strengthen the human rights organizations at the municipal and national level and to take progressive action toward human rights protection, the State Great Khural of Mongolia, through its resolution No. 41 of 2003, approved the

National Human Rights Action Program of Mongolia (hereafter referred to as “the National Programme”).

17. This instrument establishes a mechanism to guarantee the fulfilment by the State of human rights and freedoms, and constantly implements the duty to combat human rights violations and restore those rights by way of defining directions and guidelines to upgrade the initiatives and responsibilities of the State, Government organs and their officials, by expanding the involvement of civil society, foremost the self-governing bodies, non-government organizations, public media and private sectors, and by promoting citizens’ initiatives on this matter and improving their efficiency.

18. According to this Programme, the Government itself bears the whole responsibility to implement the National Programme, whose day-to-day activity is to be governed by the Implementing Committee of National Programme those functions on behalf of the Government. Government resolution No. 167 of 2005, defines the procedures for dealing with the issues of recruitment, organizational structure, competences and financing of the Implementing Committee of National Programme.

19. According to the Constitution, the Criminal Procedural Code and other legislations, Mongolian citizens shall enjoy the right to submit complaints and claims to the aforementioned State organs and NHRC regarding any incident of torture and other cruel, inhuman or degrading treatment or punishment.

20. Despite all these achievements, complaints and information issued by citizens and review proceedings conducted by human rights and law enforcement authorities have not revealed, in recent years, a single incident of mistreatment, for example of beating or the intentional causing of physical harm by inquirers, investigators or prison guards.

21. The following survey was produced by the Investigation Unit of the General Prosecutor’s Office showing the status of the investigation process, based on complaints and information regarding the mistreatment of citizens by police officers.

<i>Year</i>	<i>Article</i>	<i>Number of cases</i>	<i>Number of accomplices</i>	<i>Number of dropped cases</i>	<i>Number of suspended cases</i>	<i>Number of cases transferred to court</i>	<i>Number of total cases (yearly)</i>
September 2002	251						
	252						
	256						
2003	251	5	6	2	0	2	14
	252	9	11	3	1	5	
	256	0					
2004	251	2	7			2	16
	252	14	23	5		5	
	256	0					
2005	251	5	7	1	1	2	19
	252	14	23	4		6	
	256	0					
2006	251	3	5	2			4
	252	1	2				
	256	0					

<i>Year</i>	<i>Article</i>	<i>Number of cases</i>	<i>Number of accomplices</i>	<i>Number of dropped cases</i>	<i>Number of suspended cases</i>	<i>Number of cases transferred to court</i>	<i>Number of total cases (yearly)</i>
2007	251	5	11			3	20
	252	14	10	5	1	2	
	256	1	4				
Total	251	20	36	5	1	9	73
	252	52	69	17	2	18	
	256	1	4				

(From September 2002 through 2007)

III. Implementation of the Convention

Article 1

22. Article 1 of the Convention defines torture. Torture and similar actions are forbidden by the Constitution and other legislation of Mongolia, as these respect justice, human rights and freedoms. Article 10 of the Constitution of Mongolia states that Mongolia shall fulfil in good faith its obligations under international treaties to which it is a party, which shall become effective as domestic legislation upon the entry into force of the laws or on ratification of or accession to international conventions.

23. Paragraph 2 of article 1 of the Constitution of Mongolia states that “the supreme principles of the activities of the State shall be give effect to democracy, justice, freedom, equality and national unity and respect of law,” and paragraph 13 of article 16 states that the citizens of Mongolia shall be guaranteed the privilege to enjoy right to personal liberty and safety. No person shall be arrested, searched, detained, persecuted or deprived of liberty save in accordance with the procedures and on grounds determined by law. No person shall be subjected to torture or to inhuman, cruel or degrading treatment.

24. Paragraph 4 of Article 10 of the Criminal procedural Code of Mongolia also states that no person shall be subjected to torture or to inhuman, cruel or degrading treatment.

25. The Amendment enacted on 1 February 2008 to the Criminal Code by the State Great Khural of Mongolia described the term “torture” in a broader scope. This act shall be punished according to the degree of seriousness of the crime in terms of the injury inflicted to the human body.

26. Even before this amendment was inserted into the Criminal Code of Mongolia, the same Code had been dealing with a crime known as “torture” and in accordance with certain articles, illegal acts such as threats, violence, torture, humiliation, deception, etc., were criminalized and subjected to punishment clauses. Such illegal acts included recognizing as a suspect, charging and sentencing of a knowingly innocent person (art. 248), knowingly illegal detention or custody (art. 249), rendering an illegal court judgment (art. 250), forcing of testimony (art. 251), falsification of evidence (art. 253), making a witness or victim give a false testimony, an expert witness render a false opinion or an interpreter do false interpretation (art. 256), abuse of power or of office by a State official (art. 263) and excess of authority by a State official (art. 264).

Article 2

27. The fundamental issues related to torture, for example, prevention, responsibility, restoration and reparation, were specifically covered by the Code. In 2007, some eminent preventive clauses were inserted into the Criminal Procedural Code and the Court Decision Enforcement Law of Mongolia. According to the Constitution and other legislation, it is the duty of every citizen, governmental and non-governmental organization and economic entity to respect and obey the Constitution and other laws and to organize and further their legal implementation. Therefore, in light of its binding nature, steps carried out pursuant to this Convention must be examined in relation to related legal clauses.

28. Paragraph 13 of article 16 of the Constitution of Mongolia reads “where a person is arrested he/she, his/her family and counsel shall be notified within a period of time established by law of the reasons and grounds of the arrest”, and paragraph 14 of article 16 states “... not to testify against himself/herself, his/her family or parents and children. He or she has a right to self-defence and shall receive legal assistance. It shall be prohibited to compel a citizen to testify against him or herself.” According to paragraph 5 of article 10 of the Criminal Procedural Code of Mongolia, upon arrest, a suspect must be informed of the reasons of and grounds for the arrest and must also be admonished of his/her right to engage an advocate for his/her defence, to refer to court and of the right not to testify against him or herself. Also article 16 of the same Code states that an inquirer, investigator, prosecutor and a court have no right to compel an accused person to prove their innocence, nor to force or threaten a defendant to testify against him or herself or a family member, or oblige the defendant’s parents and children to testify against the defendant. If a defendant agrees to testify, he/she must be informed of his/her right to refuse to give testimony before the testimonial process begins.

29. Furthermore, as stated in paragraph 2 of article 35 of the same Code, the suspect and the accused shall enjoy the following rights including:

- Right to agree or refuse to give testimonies
- Right of self-defence
- Right to hire an advocate
- Right to have a personal meeting with an advocate
- Right to submit complaints regarding any illegal act and decision by an inquirer, investigator or a prosecutor
- Right to compensate for damages caused by illegal actions
- Right to submit a proposal regarding a refusal of a inquirer, investigator, prosecutor, interpreter or an expert
- Right to be assigned an expert or with expert opinion

30. The rights and duties of an advocate, whose functions are to protect the interests of participants and to support them with legal assistance during criminal proceedings, were established by the above-mentioned Code. According to paragraph 3 of article 38 of the said Code, from the moment of the commencement of exigent proceedings, or from the time a person has been considered a suspect, an advocate participates throughout the whole proceedings and a suspect, accused or a defendant shall enjoy the right to choose their advocate.

31. Chapter 8 and articles 68–70 of the Criminal Procedural Code of Mongolia provide that a suspect shall be arrested only on the grounds of court decision and following the related procedures. When a suspect has been arrested, an inquirer and an investigator shall

inform, within 24 hours his/her adult family members, relatives, advocates or permit the suspect to inform them on his/her own.

32. According to the Court Law of Mongolia, a court stands for the guarantee of human rights and freedoms, justice and legitimacy and a judge shall be independent and subject only to the Constitution and other laws pursuant to it.

33. Article 7 of the Criminal Code of Mongolia reads “the punishment and measures of coercion to be imposed to a person who committed a crime may not have the purpose of inhuman, cruel treatment or degrading his/her honour and dignity”.

34. The Court Decision Enforcement Law of Mongolia states that “the enforcement of decision shall be based on the principles of rule of law, respect of human rights and freedoms and legal interests, expediency and kindness”. The same law defines some core aspects, for example, the enforcement of court rulings in criminal cases, conditions of and procedures for detention, custody and prison facilities, rights and duties of a prisoner, labour conditions, labour of prisoner in unguarded circumstances, type, organization and promotion of correctional activities for prisoners and last but not least the prisoners conditions. Under the amendment of 3 August 2007 to the Court Decision Enforcement Law, prisoners enjoy the right to demand humane treatment and protection of personal security from the prison authority.

35. The Law on Enforcement of Decision regarding Compulsory Arrest of the Suspect and the Accused states that the process of arrest and detention shall be conducted on the principles of rule of law, humanity and respect of human rights and freedoms. It is forbidden to use torture or other means to physically torment or intimidate the arrested person. The Law also deals with such issues, for example the status of prison authority, rights and duties of its staff, prison condition and procedures, rights and duties of prisoners and implementing procedures.

36. In order to prevent of mistreatment of persons suspected and accused, the Minister for Justice and Home Affairs, through his Order No. 14, issued “The Internal Procedure of Prison Facility (28 January 2005)”, and the Justice Minister and the Minister for Health, by their joint Order No. 37/64, have produced “The Procedure on Medical Aid and Treatment to Prisoner and Visit by General Practitioners to Prison Facility (25 March 2005)”.

37. Furthermore, in order to suppress the humiliating, degrading, threatening, discriminating and abusive bureaucratic treatment of suspects and accused by the staff of the authority in the course of their duties and to imbue them with respect for laws and an attitude of compassion, through the Order No. 205 of the Justice Minister “the Code of Conduct of Court Decision Enforcement Authority” and by the Order of the Director of Court Decision Enforcement Authority “The Code of Conduct for Staffs of the Court Decision Enforcement Authority” were issued respectively.

38. Great significance has been achieved by the Law on Sobering up of a Person who had an Excessive Drinking of Alcoholic Beverages, which constitutes the legal grounds for conducting a sober-up activity in order to protect the intoxicated persons from falling victim to illegal actions by others and to prevent them from committing crimes and administrative violations. Also the legalization of relation, which was previously regulated by an order issued by the Head of General Police Department, has brought remarkable attainment as it suppressed the human rights violations based on a decision by a single authority and served to promote the protection of human rights by preventing the torture or mistreatment of intoxicated persons.

39. An inseparable human right was legalized as article 19 of the Constitution, which states that in case of a state of emergency or war, human rights and freedoms as defined by the Constitution and other laws shall be subject to limitation only by law. Such a law shall

not affect the right to life, the freedom of thought, conscience and religion or the right not to be subjected to torture or inhuman and cruel treatment.

40. The measures to be carried out during a state of emergency are reflected in the Martial and Martial-like Law and the Law on State of Emergency of Mongolia. Article 18 of the Law on State of Emergency reads “According to the subparagraph 5 of paragraph 7 of article 5 and article 16, limitation of human rights and freedoms shall not prejudice to the Constitutional clauses of right to life, freedom of thought, freedom of conscience and religion and prohibition of torture, inhumane, cruel or degrading treatment.” The violent activities of certain groups of people, including arson and vandalism, created the unstable situation, which occurred on 1 July 2008 and caused an actual threat to the lives of the police personnel. On the same day, in order to contain the scope of this unrest to stop it and prevent further damage, the President of Mongolia, according to the power vested in him by subparagraph 12 of paragraph 1 of article 33 of the Constitution and by his Decree No. 194, declared a state of emergency in the Sukhbaatar District of Ulaanbaatar. The Minister for Foreign Affairs, on behalf of the Government of Mongolia, sent the related information by diplomatic note to the Secretary-General of the United Nations.

41. In accordance with the Decree, while the state of emergency was in force, certain measures were carried out, including the enhanced protection of the basic facilities for the population’s subsistence, restriction of movement of traffic in the central part of the City of Ulaanbaatar and checking motor vehicles. Throughout the whole period, the inviolable human rights and anti-torture clauses in the Constitution and the Law on State of Emergency were fully respected.

42. The issue of the guarantee of human rights and freedoms has specifically been regulated by the Martial Law of Mongolia; its article 26 proclaims that in measures taken in times of war, no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and position, religion, opinion or education. A declaration of a state of war in some part of the territory of Mongolia shall not prejudice the structure of public administration and human rights and freedoms in the other parts of the country; the legislation of Mongolia strictly prohibits the violation and deprivation of natural rights under any circumstances.

Article 3

43. The deprivation of Mongolian citizenship, exile and extradition of citizens of Mongolia is prohibited by article 15 of the Constitution.

44. Also article 15 of the Criminal Code of Mongolia states:

- Citizens of Mongolia shall not be extradited to a foreign State for prosecution in criminal cases or for subjection to criminal liability
- Foreign nationals and stateless persons within the territory Mongolia, who have committed crimes outside the territory of Mongolia, may be extradited to foreign States to be subjected to criminal liability or for serving punishment as provided for in an international agreement to which Mongolia is a party

45. Article 18 of the Constitution of Mongolia reads “The rights and duties of foreign citizens residing in Mongolia shall be regulated by Mongolian law and by the treaties concluded with the State of the person concerned. Mongolia shall adhere to the principle of reciprocity in determining the rights and duties of foreign citizens in an international treaty concluded with the country concerned. The rights and duties of stateless persons within the territory of Mongolia shall be determined by the Mongolian law”.

46. Chapter 46 of the Criminal Procedural Code of Mongolia concerns the issue of extradition of foreign citizens and stateless person who committed crimes and are subjected to punishment in the territory of a foreign State, while chapter 47 deals with issue of extradition of foreign citizens, who are subject to punishment by the court of Mongolia, to his/her home State and the said issues are to be decided in accordance with the international treaties and agreements.

47. Twelve of the treaties concluded by Mongolia on mutual legal assistance in civil and criminal matters contain an extradition clause. Mongolia has signed the Offender Extradition Treaty with the People's Republic of China, the Republic of Korea and the Republic of India and the Extradition of Sentenced Persons Treaty with Canada and the Republic of Korea.

48. Although the grounds for refusing extradition are set out in chapters 46 and 47 of the Criminal Procedural Code of Mongolia, instances of "a sufficient reason to consider the threat of torture" are not specifically mentioned in the Code.

49. According to clause (g) of article 4 of the Extradition of Sentenced Persons Treaty with the Republic of Korea, the transfer must be agreed by both transferring and receiving parties and the sentenced person's or his or her legal representative's consent must also be confirmed.

50. A protection against inhumane or degrading treatment is contained in paragraph 4 of article 3 of the Offender Extradition Treaty with the Republic of Korea which states that if there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting or punishing a person on account of that person's race, sex, religion, nationality or political opinions or that person's position may be prejudiced for any of those reasons, the request shall be refused. As provided in paragraph 3 of article 4 of the same treaty "in extraordinary situations the request receiving party shall consider the nature of the case and the interests of request of the sending party and if it considers that depending on his/her personal circumstances the extradition is incompatible with humanitarian basis, then the assistance request shall also be declined."

51. The issues of return and deportation of the foreign citizens are regulated by the Law on the Legal Status of Foreign Citizens of 1993.

52. According to article 30 of the said Law, a decision regarding the deportation of foreign citizens is to be issued by the Minister for Justice and Home Affairs, based on the proposal of Chief of the Office of Immigration, Naturalization and Foreign Citizens, The implementation of that decision is the responsibility of the Office of Immigration, Naturalization and Foreign Citizens, the Border Defence and the Police Authority of Mongolia.

53. From 2000 through 2008, the concerned authorities of Mongolia implemented decisions involving the deportation of 3.713 citizens from 11 foreign States. Over this period, there were no incidences of non-implementation or refusal of deportation of foreign citizens caused by a reason of human rights violation or threat of torture.

Article 4

54. The crimes defined in article 1 of the Convention had been criminalized in the Criminal Code of Mongolia, for example, the following types of crimes shall be punishable under Criminal Code:

(a) Recognizing as a suspect, charging and sentencing of a knowingly innocent person (art. 248) (Maximum amount of punishment – imprisonment up to ten years);

- (b) Knowingly illegal detention or custody (art. 249) (maximum punishment – imprisonment up to five years);
- (c) Rendering an illegal court decision (art. 250) (Maximum punishment – imprisonment up to ten years);
- (d) Torturing (art. 251) (Maximum punishment – imprisonment up to 15 years);
- (e) Falsification of Evidence (art. 253) (Maximum punishment – imprisonment up to five years);
- (f) Making a witness or victim give a false testimony, an expert witness render a false opinion or an interpreter do false interpretation (art. 256) (Maximum punishment – imprisonment up to 8 years);
- (g) Abuse of power or of office by a State official (art. 263), Excess of authority by a State official (art. 264), Abuse of authority by an official of an NGO or a business entity (art. 265), Excess of authority by an official of an NGO or a business entity (art. 266) (Maximum punishment – imprisonment up to five years).

55. The circumstances that aggravate liability were highlighted in paragraph 1 of article 56 of the Criminal Code of Mongolia. These are applicable in cases of crimes committed against the victim or in respect of a person being materially or otherwise dependent on the culprit in a particularly brutal or atrocious manner.

56. According to article 34 of the Criminal Code of Mongolia, complicity shall be recognized as the deliberate joint participation of two or more persons in committing a crime. Article 35 of the same Code, distinguishes among accomplices as to the role as contractors, organizers, instigators, principals or accessories.

57. In determining the type and amount of criminal liability of the accomplices, the court shall take into account the role, character and degree of actions of each accomplice in committing the crime (art. 37 of the Criminal Code of Mongolia).

58. As provided in article 30 of the same Code, preparation or attempt of a crime shall be called an incomplete crime. Committing an incomplete crime shall be subject to criminal liability under applicable articles and paragraphs of the special part of this Code.

59. As mentioned in the Criminal Code of Mongolia, preparation of a crime shall be include actions such as obtaining, the making or adapting the means or tools of the crime, the selection of accomplices, collusion to commit a crime, or any other deliberate creation of conditions for committing a crime.

60. An attempt of a crime shall be a deliberate action aimed directly at committing a crime if the crime was not accomplished for reasons beyond control of the culprit.

61. These articles are certainly to play a key role in preventing torture and other cruel, inhuman or degrading treatment.

Article 5

62. According to article 2 of the Criminal Procedural Code of Mongolia, criminal proceedings in the territory of Mongolia shall be conducted in accordance with the Constitution of Mongolia and maintained by this Code. Article 3 of the same Code states that criminal proceedings in the territory of Mongolia, regardless of the location of the crime, shall be conducted in conformity with this Code in all circumstances. This Code is also to be applied to criminal proceedings on the land in possession of the diplomatic representatives of Mongolia abroad that constitutes its territory, on board a ship flying the State flag of Mongolia or an aircraft that is outside its frontiers.

63. According to article 12 of the Mongolian Law on the Use of Seas of 1999, the State flag of Mongolia shall be the symbol that determines Mongolian jurisdiction over a ship and the right to fly the State flag of Mongolia shall be granted to a ship registered to Mongolian ship registry.

64. The criminal proceedings regarding the crimes committed by foreign citizen or stateless person shall be conducted by the procedures in the Criminal Procedural Code of Mongolia.

65. In case of a foreign citizen, who enjoys or has requested diplomatic immunity and privileges, he/she shall be involved in the criminal proceedings under the procedures in the Criminal Procedural Code of Mongolia.

66. The request for permission for the involvement of foreign citizens enjoying diplomatic immunities and privileges in criminal proceedings shall be forwarded by the State administrative organization in charge of foreign relations.

67. Article 14 of the Criminal Code of Mongolia reads as follows "if a citizen of Mongolia or a stateless person permanently residing in Mongolia has committed a crime specified in this Code abroad and he/she has not been sentenced for it, he/she shall be subject to criminal liability under this Code".

68. The following provisions are contained in the Criminal Code of Mongolia:

(a) If the person has been imposed a penalty for a crime abroad, a Mongolian court may commute the penalty imposed in accordance with this Code or renounce the person recognized guilty. Unless otherwise provided in an international agreement to which Mongolia is a party the court may recognize the person not guilty in accordance with the grounds and rules set in this Code (art. 14, para. 2);

(b) Unless otherwise provided in an international agreement to which Mongolia is a party, Mongolian servicemen who have committed crimes in the course of their service abroad shall be subject to criminal liability under this Code (art. 14, para. 3);

(c) Foreign citizens and stateless persons who have committed crimes beyond the territory of Mongolia shall be subject to criminal liability under this Code only if so provided in an international agreement to which Mongolia is a party (art. 14, para. 4);

(d) If a foreign citizen or a stateless person who does not permanently reside in Mongolia has committed a crime against the interests of Mongolia outside its territory for which he/she has not been sentenced, he/she may be subjected to criminal liability under this Code in the circumstances specified in an international agreements to which Mongolia is a party (art. 14, para. 5);

69. The criminal proceedings regarding the extradition of a person, who is under investigation following the result of committing a crime in the foreign State or a person who committed a crime in Mongolia and has been captured in the foreign state, have been established Article 404 of the Criminal Procedural Code of Mongolia.

70. According to paragraph 1 of article 405 of the Criminal Procedural Code of Mongolia, a request by a foreign authority for the extradition of a foreign citizen or stateless person, who has been sentenced for his/her crime committed in the territory of foreign state, shall be decided in accordance with law and international treaties and agreements.

Article 6

Extradition of an offender and measures of restraints

71. As stated in article 403 of the Criminal Procedural Code of Mongolia, in cases where a request for an investigation has been submitted by a foreign authority regarding the crime committed by Mongolian citizen in the territory of foreign State after he/she has returned to Mongolia, the criminal proceedings shall be conducted by the procedures in this Code.

72. According to paragraph 1 of article 408 of the Criminal Procedural Code of Mongolia, if there is a legal ground for extradition of an offender in reply to the request made by a foreign authority, the offender shall be apprehended and held in custody until the time of extradition and the requesting authority shall be informed immediately of time and place of extradition.

73. The issue raised have been reflected in the Government's mutual legal assistance treaties concluded with foreign states in the following ways:

- According to article 57 of the Mutual Legal Assistance Treaty concluded with the Government of the Socialist Republic of Vietnam in 2000, "As soon as the request of extradition has been received, unless otherwise provided in this Treaty as an extradition is prohibited by the Receiving Contracting Party, a person who should be extradited shall be captured immediately". The article reproduces the relevant clauses in the Treaty with the Republic of Cuba (1989), the Republic of Kazakhstan (1993) and the Republic of Ukraine (1995).
- According to article 56 of the Legal Assistance Treaty established with the Republic of Hungary in 1968, "A Contracting Party that received the extradition request as soon as receives it, in accordance with this Treaty it does not related to non extradition clause, a person to be extradited shall be seized immediately." The same article is contained in the Treaty with the Socialist Federal Republic of Yugoslavia (1981), the Republic of Bulgaria (1968), the Republic of Korea (1999), the Czech Socialist Republic (1976) and the Republic of Poland (1998).

74. Article 58 of the Criminal Procedural Code of Mongolia rules that a suspect shall be arrested if he/she has attempted to escape or is suspected of serious and grave crimes on sufficient evidence. An inquirer or an investigator shall produce and submit an arrest warrant to the prosecutor, who shall present it in court for approval.

In exigent situations an inquirer or an investigator shall arrest the suspect immediately and submit the resolution to the prosecutor and court within 24 hours. Within 48 hours after having received the resolution, the court shall issue either custody or release warrant. If the court does not issue a custody warrant within 72 hours of the arrest, the Chief of Arrest house on informing the inquirer, investigator, prosecutor or judge, shall release the detained person.

75. According to article 62 of the Criminal Procedural Code of Mongolia, one of the following restraining measures shall be imposed on the suspect when there are grounds for believing that the suspect has the potential to hinder the case by evading the inquiry or investigation proceedings:

- (a) To assign the suspect to his/her residence;
- (b) To hold him/her in custody;
- (c) To have him/her post l properties as bail;
- (d) To place the serviceman under the oversight of his commander;

(e) To place him/her in detention.

76. The resolution to take restraining measures shall be issued by a court, prosecutor, inquirer, and investigator. The competence to issue a decision regarding the measure of restraint or detention shall be vested only in a judge.

77. In the event that the accused person has previously been sentenced multiple times, such recidivist shall be placed in detention in order to prevent he/she from committing another crime, from intentionally blocking the settlement of the case or from deserting the inquiry, investigation or court (art. 68 of the Criminal Procedural Code of Mongolia).

78. As provided in article 69 of the Criminal Procedural Code. The investigation and detention period:

(a) Shall be up to 14 days for the suspects;

(b) Shall be up to two months for the accused.

79. Depending on the complexity of the case, the court may decide to extend the period of investigation and detention, the length of such detention varying in relation to the seriousness of the crime concerned. The extension for a less serious crime shall not exceed more than four months, for a serious crime, no more than 12 months and for grave crime no more than 24 months.

80. The Code reduces the detention period for minors. The basic period shall be 1 month, but in case of extension, it shall not exceed more than two months for less serious crimes, extensions shall not exceed four months for serious crimes and shall not exceed eight months for grave crimes.

81. In cases of investigation and detention of a person accused of the assassination of a State or public figure (art. 81); sabotage (art. 84); murder under aggravating circumstance (art. 91); theft under aggravating circumstance (art. 145); banditry under aggravating circumstances (art. 177) and genocide, (art. 302), the court may extend the investigation and detention beyond that provided for paragraph 3 of article 69, for a period of up to six months.

82. An investigator shall produce a resolution regarding the extension of investigation period and submit it to the prosecutor and to the court seven days prior to the expiration of the detention period.

83. A judge shall examine the proposal of extension within 72 hours and either approve or decline that proposal.

84. As for a person who has been placed in detention twice for one case or for separated and merged cases, the previous period in detention shall be included in calculating his/her entire period in detention.

85. A further detention period for the accused of a crime for which the court has decided requires additional investigation, shall be included in the period provided in paragraph 2 of article 69 of the Criminal Procedural Code.

86. In cases where the detention period for the accused person has expired during the review process by the court, the Chief Justice of that court shall issue an order to extend the period.

87. The Law on Enforcement of Decision regarding Course of Arrest and Detention of the Accused and the Suspect was enacted on 1 July 1999. The objectives of this Law are to determine the conditions and procedures of implementing the decisions regarding the arrest and detention of the suspect and the accused in accordance with a legitimate decision issued by authorized officials and to regulate the relations thereof.

88. According to article 3 of the said Law, throughout the process of arrest and detention the principles of rule of law, humanity and human rights and freedoms shall be respected, and it is forbidden to physically torment or intimidate the arrested persons by using torture or other cruel means. This Law strictly prohibits any mistreatment by prison staff.

89. Within 24 hours of an arrest, an inquirer and an investigator shall inform the suspect's adult family members, relatives, or advocates or permit the suspect to inform them on his/her own (art. 61 of the Criminal Procedural Code of Mongolia). A decision to detain anyone shall be communicated to his/her family member, relative or advocate by a inquirer, investigator, prosecutor or judge within the period provided in article 61 of the Criminal Procedural Code, (art. 68 of the Criminal Procedural Code of Mongolia).

90. If the arrested person is a foreign citizen, the State administrative organ in charge of foreign relations, shall inform the diplomatic representatives of the State concerned within 24 hours, (for stateless person this type of regulation does not apply).

91. As mentioned above, according to paragraph 1 of article 408 of the Criminal Procedural Code of Mongolia, if there are legal grounds for the extradition of an offender in response to a request made by a foreign authority, he/she shall be apprehended and detained until the moment of extradition and the requesting authority shall be informed immediately of the time and place of extradition. If an extradition has not been made within 30 days by the requesting party, the prosecutor shall issue decision of release. Recapture of the released person can be made following a request in writing.

92. In cases in which a foreign citizen left Mongolia after having committed a crime in the territory of Mongolia, related materials collected during the investigation process shall be forwarded to the competent foreign authority according to procedures in laws and international treaties and agreements (art. 402 of the Criminal Procedural Code of Mongolia).

93. As stated in paragraph 2 of article 403 of the Criminal Procedural Code of Mongolia, in the case where a Mongolian citizen has returned to Mongolia after having committed a crime in the territory of foreign State, related materials collected during the investigation process by the competent foreign authority shall be forwarded to Mongolia according to procedures in laws and international legal instruments and it shall be considered evidence.

94. Article 409 of the Criminal Procedural Code of Mongolia provides that in the course of the extradition of a foreign citizen or stateless person in accordance with procedures in this Code, the tools of the crime, for example, weapons and other items, along with the traces of the crime and criminally acquired objects and all the necessary evidence must also be transferred. In cases where such evidence may be useful in solving another crime their transfer may be refused. If the competent authority of the foreign State has issued a guarantee to return these items after the case has been solved the transfer will be acceptable.

Article 7

Refusal to extradition and equality before law and court

95. According to article 406 of the Criminal Code of Mongolia, an extradition shall be forbidden in the following instances:

- (a) When extradition is sought for a citizen of Mongolia;
- (b) When the right of asylum has been granted to offender;

(c) When extradition is requested in respect to commission of an act that does not constitute a crime in Mongolia;

(d) When the person for which extradition is sought has previously been sentenced for the same crimes, or when the case has been dropped;

(e) The period of limitation on that case has expired according to the legislation of Mongolia or other circumstances exist that would justify dropping the case or imposing penalties on some other grounds.

96. According to article 14 of the Criminal Code of Mongolia, foreign citizens and stateless persons who have committed crimes beyond the territory of Mongolia shall be subject to criminal liability under this Code only if so provided in an international agreement to which Mongolia is a party (art. 14, para. 4). If a foreign citizen or a stateless person who does not permanently reside in Mongolia has committed a crime against the interests of Mongolia outside its territory for which he/she has not been sentenced, he/she may be subjected to criminal liability under this Code in the circumstances specified in an international agreements to which Mongolia is a party (art. 14, para. 5).

97. As stated in paragraph 14 of article 16 of the Constitution of Mongolia, a citizen of Mongolia shall enjoy the right to self-defence, to receive legal assistance, to have evidence examined, to a fair trial, to be tried in his/her presence, to appeal against a court judgment and to seek pardon. The aim of the criminal proceedings, as set out in article 6 of the Criminal Procedural Code of Mongolia, is to fully and promptly detect the crime and identify the criminal, to impose a fair penalty to every individual who has committed a crime and to ensure that every person shall be presumed innocent until proved guilty by a court by due process of law. Furthermore, Article 6 of the Criminal Code of Mongolia reads "Punishment and other measures of criminal liability shall correspond to the nature and degree of the social danger of the crime, the character of the culprit and circumstances of the crime".

Article 8

Extradition treaty

98. At present, Mongolia has concluded 24 mutual legal assistance treaties, which include extradition of offender treaties with the People's Republic of China, the Republic of Korea and the Republic of India and extradition treaties with the Republic of Korea and Canada. Also an extradition clause was placed in the 12 of the Mutual Legal Assistance Treaties on Civil and Criminal matters.

99. A list of crimes for which extradition is permitted is absent in the extradition of offender treaties entered into by Mongolia and the scope of crimes, which extradition may take place is defined by the degree of severity of the penalty to be imposed for that crime by the court. Mostly these are the crimes subject, in the relevant laws of the contracting parties, to a penalty of imprisonment for not less than one year.

100. Although the crime of torture and other cruel, inhuman or degrading treatment or punishment has not been precisely defined in the legal assistance treaties, many crimes of this nature have been included in the framework of crimes eligible for extradition.

101. On 16 May 2008, the State Great Khural of Mongolia unanimously ratified the United Nations Convention against Transnational Organized Crime and its Protocols (the Protocol to Prevent, Suppress and Punish Trafficking in Person, especially Women and Children, the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the illicit Manufacturing of and Trafficking in firearms, their Parts and Components and Ammunition).

102. This ratification by Mongolia provided the legal ground for cooperation within the framework of the Convention and it has become possible to request the extradition of a person involved in organized crime, residing in the territory of the request receiving State, and most significantly, that a penalty for such crimes may be imposed in accordance with the national legislations of either the requesting or receiving States.

103. Article 404 of the Criminal Procedural Code of Mongolia reads: “A request regarding the extradition of a Mongolian citizen, who is presently in the territory of foreign State after he/she committed a crime in the territory of Mongolia, shall be forwarded to the foreign authority in accordance with laws, international treaties and agreements.” As article 405 of the Criminal Procedural Code of Mongolia states, a request by a foreign authority for the extradition of foreign citizen or stateless person, who has been sentenced for his/her crime committed in the territory of foreign State, shall be decided in accordance with laws, international treaties and agreements. Article 410 rules that an extradition of a foreign citizen, who has been sentenced to imprisonment by a Mongolian court or a Mongolian citizen, who has also been sentenced to imprisonment by a foreign judicial organ, shall be implemented in accordance with the conditions and procedures in the international treaties of Mongolia concluded with that concerned state. General regulations governing the extradition of the offender and the accused have been set out in chapters 46 and 47 respectively of the Criminal procedural Code of Mongolia.

Article 9

Commission execution

104. Article 398 of the Criminal Procedural Code of Mongolia reads “Interrogation, examination, search, testing, confiscation as well as inquiry, investigation and other judicial activities provided in this Code, shall be conducted, in the territory of foreign state, in accordance with the mutual legal assistance treaties and other international legal instruments.”

105. A judicial commission (the Commission) regarding certain criminal proceedings shall be conducted through the concerned authority named in the international treaties and agreements.

106. According to article 399 of the Criminal Procedural Code of Mongolia, the commission of criminal proceedings shall be in writing and should include the following:

- (a) Name of the commission giving authority;
- (b) Name of the commission receiving authority;
- (c) The commission requirement and content of a case;
- (d) Nationality, occupation, information on place of residence, name and address if it is a legal entity;
- (e) Evidence;
- (f) Classification information, amount of damage if necessary.

107. The commission, its attachments and evidence must be translated into the official language of the receiving State with signature of authorized official and stamp, if necessary.

108. As defined in article 400 of the Criminal Procedural Code of Mongolia, unless otherwise provided by international treaties and agreements, a Mongolian citizen who is permanently or temporarily residing in foreign state, who is a witness, victim, plaintiff or defendant in a civil case, and their representatives or experts, can be called upon through the Mongolian diplomatic representatives in that state; a foreign citizen, who became a

witness, victim, plaintiff or defendant in a civil case, and their representatives or experts shall be called upon through the State organization in charge of foreign relations or any other competent authority of that State.

109. As article 401 of the Criminal Code of Mongolia stipulates, an inquirer, investigator, prosecutor or judicial organ shall execute the commission regarding the conduction of criminal proceedings issued by a foreign authority or official in accordance with common legal procedures. If the international treaty concluded with that State so stipulates, the norms of the foreign state's criminal proceedings shall be applicable to the commission execution and the foreign authority may be present throughout the whole process. In case of non-execution of the commission and unless otherwise provided in the international treaties and agreements, the related materials and relevant explanations must be returned to the foreign authority concerned through the General Prosecutor's Office or by a State administrative organization in charge of legal affairs.

110. As provided in articles of 402 and 403 of the Criminal Procedural Code of Mongolia, in cases in which a foreign citizen left Mongolia after having committed a crime in the territory of Mongolia, related materials collected during the investigation process shall be forwarded to the competent foreign authority according to procedures in laws, international treaties and agreements; the same materials related to Mongolian citizen, who returned to Mongolia after committing a crime in the territory of foreign State, shall be transferred in accordance with laws, international legal instruments and they shall be evaluated as evidences.

Article 10

Training and morals

111. Mongolia pays great attention to conducting training on human rights, torture and inhuman treatment for the staff of law enforcement authorities who exercise the right of arrest and interrogation.

112. Particularly, since the establishment of NHRC, this type of training has become regular. And as mentioned, the establishment of an independent human rights protection body has become a guarantee for human rights and against torture and other cruel, inhuman or degrading treatment or punishment.

113. In recent years, in order to raise the human rights awareness of the staff of the Court Decision Enforcement Authority of Mongolia, many significant training courses have been organized in the framework of cooperation with the Office of the United Nations Resident Representative in Mongolia, the National Human Rights Commission, Amnesty International Mongolia and the National Centre against Violence.

114. Furthermore, foreign projects in Mongolia have been continuously conducting training programmes and providing information on human rights and against torture.

115. The terms of reference of inspectors of detention centres at the Court Decision Enforcement Authority, have been changed to grant them the status of "social workers" and in 2003, they attended the course for social workers at the School of Humanities, University of Science and Technology of Mongolia. Also, 2004 was declared a year of regularization of social worker activities. In order to implement the objectives set, a competition on regularization of social worker activities had been organized amongst the local detention centres at the Court Decision Enforcement Authority. The core aims of that competition were to arrange training of the prisoners so as to prepare them for their return to society, prevent them from committing crimes, or escaping from prison and evading penalties and from violating internal prison rules, also to hold training for prison staff on polite treatment

in accordance with related procedures and not to violate the rights and freedoms of prisoners established by laws, improve supervision and increase efficiency. Furthermore, an elaboration of social work programme from 2008 to 2009 has been done and presently there are approximately 70 social workers at the detention centres.

116. In order to improve the discipline of minor prisoners and to psychologically prepare them for re-entry into social life, a school of general education was established at Minor's Detention Centre in 2001 with a curriculum of vocational training on crafting, handcrafting, carpentry and sewing.

117. The Court Decision Enforcement Authority of Mongolia annually approves the Programme on Wintertime Training of Staff and organizes many important events for the staff of decision enforcement and detention authorities. Since 2000, 9.100 participants have attended these trainings.

118. The programme broadly includes the human rights instruments, international treaties and conventions agreed in the framework of international law by the United Nations and the training given by the National Legal Institute, universities and related organizations of Mongolia based on these instruments.

119. Certain topics on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment have been included in the curriculum of the Police Academy of Mongolia.

120. Short-term training on the same topic is to be provided to the staff of related authorities, particularly in the annual special curriculum programme.

121. In 2004 and 2005, along with NHRC of Mongolia, special one day training on torture and other cruel, inhuman or degrading treatment or punishment was delivered district by district to all 500 police officers from 6 districts of the City of Ulaanbaatar.

122. In the last three years, almost 800 officers from central and local police departments have attended the training held by NHRC of Mongolia, the Academy of Legal Education (Hanns-Zeidel Foundation) and the National Legal Institute on topics such as the protection of human rights and freedoms, the reforms of the Criminal and Criminal Procedural Code of Mongolia and the behaviour of police staff.

123. The notion of a Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in its resolution 34/169 of 17 December 1979, has been reflected in the training dedicated to police staff.

124. The norms and principles governing police behaviour are set out in "The Code of Conduct of Police Staff", "The Code of Conduct of Investigators", "The Code of Conduct of Inquirers", "The Internal Procedures of the Police Academy" and "The Accomplishment Standard of Police Staff".

125. Article 7 of the Code of Conduct of Investigators states that "Every investigator shall protect and respect the legitimate interest of a person who is under investigation". Article 15 reads "An investigator has no right to use any of investigation method against the procedures in law, intentionally misuse laws and to conduct activities harsh to the interests of the suspect and the accused". In addition to including the above clauses, the Codes of Conduct of Police Staff and Inquirers contain more specific articles on fair activities to be conducted with a view to protecting human rights and freedoms and respecting laws.

126. Also, the Investigation Unit at the General Prosecutor's Office of Mongolia approved its own Codes of Conduct of the Unit and Investigators. For example, paragraph 3 of article 3 of the Code of Conduct of Investigators of the Investigation Unit at the General Prosecutor's Office of Mongolia states that when an investigator is exercising his/her duty, he/she shall not torture, inhumanly degrade others and intimidate or impose his/her will.

127. As stipulated in the Court Decision Enforcement Law of Mongolia, “The Internal Procedure of Prison”, “The Procedure of Supervision on Security Staffs and the Prisoners”, “The Procedure on Conditions of Discipline Facility and Separating Section” and “The Procedure on Use of Special Tools and Firearms by the Staffs of Court Decision Enforcement Organs” were approved by the Order of the Minister of Justice and Home Affairs.

128. In order to implement the Convention, many of its clauses have been inserted into the Code of Conduct and Morals of the Staffs of Court Decision Enforcement Organs.

129. As the National Human Rights Action Programme of Mongolia, approved in 2003 by Order No. 41 of the State Great Khural of Mongolia, states “... to regularize inquiring and investigation proceedings with the clauses of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, clarify the responsibilities of inquirers and investigators by way of delivering to them an instruction, recommendation and organizing training ...” certain measures to this end were contained in the Programme Implementing Plan of 2007–2008.

Article 11

Arrest and detention proceedings and advocacy

130. Paragraph 13 of article 16 of the Constitution of Mongolia reads, “Citizen of Mongolia shall enjoy the right to personal liberty and safety. No person shall be searched, arrested, detained, persecuted or deprived of liberty save in accordance with procedures and grounds determined by law. No person shall be subjected to torture or to inhumane, cruel or degrading treatment. Where a person is arrested he/she, his/her family and counsel shall be notified within a period of time established by law of the reasons for and grounds of the arrest. The privacy of citizens and their families, correspondence and residence shall be protected by law”. This paragraph constitutes a legal guarantee for the protection of legitimate rights of arrested and detained persons.

131. Proposals for temporary or compulsory detention submitted by an inquirer or an investigator were previously approved by prosecutors, since 2002, such approval has been placed within the competence of a judge.

132. The revision of the grounds and procedures of detention and investigation and transferring the right of approval of detention to a judge, has revealed some remarkable advances as the national legislations are becoming more accordable with international treaties and agreements and world standards, and the number of persons in detention is somehow diminishing.

133. Although a right to issue an approval regarding detention has been vested in judge’s discretion, in case of exigent situations as provided in articles 58 and 59 of the Criminal Procedural Code of Mongolia, an inquirer and an investigator shall make such decision and prosecutor shall submit it to judge. In order to prevent human rights violations during exigent situations, four prosecutors, whose functions are regulated by the General Prosecutor’s Order No. 274 of September 2007, have commenced working permanently at Detention Centre No. 461 of the City of Ulaanbaatar.

134. Mongolia is consistently maintaining its stage-by-stage policy to reduce the detention period. For example, until 1994 there existed no maximum period of detention; however, the Code of 1994 provided that the detention period shall not exceed more than two months, although the detention period for a person accused of a grave crime, depending on its criminal nature, shall be up to 36 months, and through the Code of 2002, detention period for the accused of less serious, serious and grave crimes shall not exceed more than

24 months and for the accused of certain types of crimes (art. 69 of the Criminal Code of Mongolia) detention period shall be extended up to 30 months. Since August 2007, a detention period for less serious crimes may not exceed four months, 12 months for a serious crime and not more than 24 months for grave crimes. Long-term detention in general is to be reduced.

135. According to the Constitution of Mongolia, when a person is arrested he/she, his/her family and counsel shall be notified within the period of time established by law of the reasons and grounds for the arrest. As the Criminal Procedural Code of Mongolia stipulates, within 24 hours of an arrest, an inquirer and an investigator shall inform the suspect's adult family members, relatives, and advocates or permit the suspect to inform them on his/her own. In the case of a foreign citizen, the related information is to be forwarded to the diplomatic representatives of the State concerned within same period of time through the State administrative organization in charge of foreign relations. The conditions for obligatory presence by advocates are well established by this Code and they are to be fully implemented.

136. The principle of debate during the court trial was first reflected in the Criminal Procedural Code of Mongolia (1994) and the Code of 2002 has expanded the content of this expression.

137. In order to consistently maintain the principle of debate during the court trial, the rights and involvement in the criminal proceedings by advocate, who is on one side of the debate, have been expanded accordingly and the advocacy is to be conducted from the beginning of criminal proceedings.

138. For example, a person can enjoy the right to choose his/her own advocate from the moment of he/she has been considered a suspect (art. 38, para. 3 of the Criminal Procedural Code of Mongolia) or from the moment of the commencement of exigent proceedings (Amendment made in August 2007). These eminent regulations have been made in the framework of action towards the protection of human rights and freedoms and against torture.

139. According to paragraph 3 of article 41 of the Criminal Procedural Code of Mongolia, an advocate, from the moment of involvement in case, shall exercise the following rights:

- (a) To meet the suspect and the accused in person;
- (b) To take part in the interrogation process and ask questions;
- (c) To request and obtain the collection of items, documents, information and any other evidence needed for legal assistance;
- (d) To review all the case materials after the inquiry or investigation has taken place;
- (e) To make copies of evidence at his/her own expense, except where these are State property or infringe on organizational secrecy and personal privacy;
- (f) To submit complaints against the decisions delivered by an inquirer, investigator and a prosecutor.

140. The above rights create an opportunity for advocates to actively participate in the debate in court trials.

141. The Criminal Procedural Code of Mongolia imposes the same norms on inquirer and investigator, including:

(a) To inform the suspect when he/she has been captured of the grounds of arrest and must be reminded of his/her right to hire an advocate, self-defence and the right to not to testify against him/herself (art. 10);

(b) To ensure that the suspect and the accused have been provided with their right to an advocate (art. 18, para. 2);

(c) To introduce the warrant of arrest to the suspect and furthermore to explain his/her rights, particularly right to give testimonies in the presence by advocate according to article 35 of the Criminal Procedural Code of Mongolia (art. 59, para. 3);

(d) To inform the suspect immediately of the crime of which he/she is suspected; his/her adult family members and advocates shall also be informed of this within 48 hours (art. 35, para. 4);

(e) To ensure the presence of an advocate during the inquiry and investigation process of a case related to the suspect and the accused as required by article 40 of the Criminal Procedural Code of Mongolia (art. 40, para. 1);

(f) To allow the suspect and the accused to choose their own advocates, or on their permission and request to choose the same officials by their legal representatives, to inform family members and relatives, to know the grounds for his/her arrest; the right to self-defence, to hire an advocate and to meet with his/her advocate in person (arts. 35 and 36).

142. Paragraph 1 of article 56 of the Constitution of Mongolia stipulates “The prosecutor shall supervise the registration of cases, investigation and the execution of punishment and participate in the court proceedings on behalf of the State.” To this end, the prosecution authority supervises the following:

(a) Whether arrest, detention or any other types of punishments are conducted in accordance with grounds and procedures in law;

(b) Whether arrest, detention or any other types of punishment actions are compatible with conditions and regimes established by law;

(c) Whether the other measures of criminal liabilities have been taken in accordance with grounds and procedures in law;

(d) Whether the legitimate rights of the accused have been ensured.

143. In doing so, the prosecutor shall exercise the following rights:

(a) To demand the court to submit the court ruling within the period of time provided in the Criminal Procedural Code of Mongolia;

(b) To have free access to the place of detention or prison, to examine the resolution, decision or document that imposed the penalty, meet the prisoner in person and to receive explanations and definitions if necessary;

(c) To oversee the process of the executions of penalties and take related measures to eliminate offences;

(d) Where specifically required by law, to make reports and assign experts on the enforcement of court decisions;

(e) To examine the conditions and regimes of arrest and detention facilities and to immediately release innocent persons;

(f) To participate in court trials adjourning the execution of resolutions, imposing fines, replacing a sentence of forced labour by another penalty, relaxing punishment when justified by illness, reducing the prison terms, converting unfinished

sentences into lighter penalties, changing the sentence of imprisonment so that it can be carried out in a detention facility and/or changing the penalty in a detention facility into a penalty of imprisonment.

144. Also, the prosecutor supervises the implementation of the Law on Enforcement of Decision regarding Compulsory Arrest of the Suspect and the Accused (art. 45), which was enacted in 1999 by the State Great Khural of Mongolia, in the following ways:

- (a) Ensuring that the conditions of, and the procedures and activities carried out by the detention facilities are compatible with this Law;
- (b) Freely enter the detention facilities whenever the prosecutor wishes;
- (c) To meet the accused persons and others involved in the case;
- (d) To study the case and other materials pertaining to the accused person;
- (e) To supervise and decide upon the issued claims, requests, complaints and offences.

145. The prosecutor's decision issued within his/her competence, based on the grounds and procedures established in the law, is to be accepted and executed by the administration and staff of the detention facilities.

146. Therefore, only the prosecution authorities shall permanently supervise the conditions of detention, custody and prison facilities and the protection of the legitimate interests of the accused persons.

147. The below is the chart of statistics of the review carried out by the prosecution authorities on the detention and punishment proceedings from 2000 through 2007.

Indicator of review process

No.	Indicator	2000	2001	2002	2003	2004	2005	2006	2007	Total
1	Review made	388	396	304	346	561	428	542	530	3 495
2	By review									
	Offences revealed	1 376	1 569	6 883	2 969	3 740	2 825	1 969	2 764	24 095
	Offences eliminated	873	1 158	6 036	2 619	3 333	1 982	1 899	2 238	20 138
3	Notifications and requests made	252	308	364	266	375	365	276	379	2 585
4	Number of officials sanctioned	188	198	256	210	227	175	149	229	1 632
5	Number of persons restored their rights	1 676	2 193	1 410	594	893	603	295	497	8 161

The survey on the release of persons by the prosecutor in accordance with paragraph 3 of article 10 of the Criminal Procedural Code of Mongolia.

Year	Illegally arrested		Captured in detention		Exceeded detention period		Total persons released
	Number of persons	Released	Number of persons	Released	Number of persons	Released	
Since September							
2002	15	15	15	15	3	3	33
2003	25	25	4	4	8	8	37
2004	33	33	2	2	4	4	39
2005	39	39	2	2	4	4	39
2006	48	48	—	—	16	16	64
2007	46	46	4	4	1	1	51
Result	206	206	27	27	36	36	263

148. According to article 105 of the Court Decision Enforcement Law of Mongolia, a detention organ consists of a detention facility; a prison or an imprisonment facility for adults and minors and a facility, where the same regime applies.

149. Also, as stipulated in article 106 of the same Law, decisions relating to the establishment, changing, closing and moving the location of the detention facilities shall be taken by the Government based upon the proposals of the Member of Government in charge of legal affairs.

150. As of March 2009, there were 21 centralized prisons and 25 detention facilities established in conformity with the law and conducting their activities under the supervision of prosecutor. These facilities are officially recognized and transparent. In other words, there is no hidden prison in Mongolia and no complaint or information in this regard has ever been received by the law enforcement authorities, or by the State and non-governmental organizations involved in the protection of human rights and freedoms.

151. The non-standardized temporary detention facility at Governor's Office of Ikh Khet and Airag soums of Dornogovi aimag (province) and the sober-up station and compulsory detention facility near Gurvan tes soum of Umnugovu aimag, which were established without the prosecutor's permission, have been closed.

152. Furthermore, the sober-up station and temporary detention facility at Choibalsan, Khalkh gol and Bayan-Uul soums of Dornod aimag have been closed due to illegal acts and eventually the activities of eight detention and sober-up facilities, which did not meet minimum standards, have been terminated.

153. The issue of room changes at the detention facilities was legalized by the Joint Order No. 347/A173 of 13, December 2006, of the General Prosecutor and the Head of the Court Decision Enforcement Authority of Mongolia. The installation of camera surveillance systems in all detention facilities has played a major role in preventing arbitrary changing of prisoner's rooms by inquirers and investigators in order to intimidate the prisoners to admit their guilt.

Article 12

Examination of torture cases

154. According to the Criminal Procedural Code of Mongolia, an investigation into torture crimes shall be handled by the following authorities:

- An Investigation Unit at the General Prosecutor's Office of Mongolia shall investigate less serious, serious and grave crimes (except the cases provided in the paragraph 1 of article 27 of the Criminal Procedural Code of Mongolia) committed by the police staff, inquirers, investigators, prosecutors, judges and the intelligence staff.
- An investigator of the Anti-Corruption Agency shall investigate the cases provided in the Criminal Code of Mongolia, including abuse of power or office by a State official (art. 263), excess of authority by a State official (art. 264), abuse of authority by an official of an NGO or a business entity (art. 265), excess of authority by an official of an NGO or a business entity (art. 266), receiving of a bribe (art. 268), giving of a bribe (art. 269), intermediation in bribery (art. 270) and spending of the budget funds contrary to their designation (art. 273).
- An investigator of the police authorities shall investigate less serious, serious and grave crimes except the abovementioned, as well as the crimes set out in paragraph 1 of article 27 of the Criminal Procedural Code of Mongolia.
- A prosecutor shall examine the implementation of laws during inquiry and investigation proceedings and participate in court trials on behalf of the State. In doing so, prosecutor shall exercise the rights provided in articles 193 and 195 of the Criminal Procedural Code of Mongolia and other rights vested in him/her by laws.

155. By establishing the Unit at the prosecution authority with the function of investigating the cases involving actions committed by police staff, inquirers, investigators or law enforcement officials, the system under which State organizations investigated the crimes of torture involving their own staff was abolished.

156. The official court statistics show that a survey on inquirers, investigators and police staff, who have been sentenced for using torture in order to get testimonies, has not been issued for the last three years. Since 2002, only 1 person from inquiry, investigation, court and prosecution authorities has been sentenced for his inhumane and cruel treatment (art. 251 of the Criminal Code of Mongolia) towards the suspect and the accused person.

Article 13

Claims, complaints and settlements

157. As stipulated in article 16 of the Constitution of Mongolia, a citizen of Mongolia shall enjoy the right to appeal to the court to protect his/her right if he/she considers that the rights or freedoms as spelt out by the Mongolian law or an international treaty have been violated, and the right to submit a petition or a complaint to State bodies and officials. The State bodies and officials shall be obliged to respond to the petitions or complaints of citizens in conformity with law.

158. Also, paragraph 1 of article 49 of the Constitution of Mongolia reads "Judges shall be independent and subject only to law", which stands as a guarantee for the implementation of article 13 of this Convention.

159. According to article 170 of the Criminal Procedural Code of Mongolia, chiefs of inquiry and investigation authorities or an inquirer, investigator and a prosecutor must accept the complaint and information regarding a crime that has been committed or an attempt or preparation to commit a crime.

160. A decision on the complaint and information regarding the crime shall be taken within five days. In cases where additional explanations, materials or related documents and crime scene examination are requested, the chiefs of inquiry and investigation authorities shall extend the period up to 14 days.

161. As provided in article 102 of the Criminal Procedural Code of Mongolia, participants in the criminal proceedings shall enjoy the right to request to conduct particular criminal proceedings, to have an examination as to establish whether the action in fact constitutes a crime and to have his/her legitimate interests protected by an inquirer, investigator, prosecutor, court and a judge. Requests can be issued at any time during the criminal proceedings and their non-fulfilment shall not constitute grounds to limit their re-issuance at any stage of proceedings.

162. The decision whether to satisfy the request shall be taken, immediately, or if this is not possible, within five days from the moment of its issuance.

163. The request shall be accepted if it possesses elements of potential significance to a decision on the case or in protecting the legitimate interests of participants and other persons. Otherwise, it shall be nullified. An inquirer, investigator, prosecutor or a court shall issue a resolution and decision whether to fully or partially satisfy the request or to nullify it. In the latter instance a complaint can be submitted following the legal procedures.

164. According to article 106 of the Criminal Procedural Code of Mongolia, a participant in the criminal proceeding, either a citizen or a business entity, whose legitimate interests have been violated by that proceeding, shall issue a complaint, in accordance with procedures in this Code, with respect to the activities and the decisions made by an inquirer, investigator, prosecutor or a court. If the suspect or the accused person has issued a complaint to an inquirer, investigator, prosecutor and a court, the administration of the detention facility shall forward it within 24 hours to the exact address. A complaint regarding the activities and decision by an inquirer, investigator, prosecutor and a court shall be issued at anytime during the criminal proceedings.

165. Article 22 of the Law on Enforcement of Decision regarding Course of Arrest and Detention of the Accused and the Suspect states the followings:

- The accused shall submit his/her claim, proposal and complaint addressed to the State and municipal administrations, other organizations and the officials through the administration of the detention facility where he/she is being held
- The administration of the detention facility shall not check a claim, proposal or a complaint addressed to other organs that supervise the activities carried out by a court, prosecutor or detention facility and within one day of its receipt must submit it in a sealed envelope to the concerned organs
- A claim, proposal or complaint addressed to organs, officials and advocates other than the entities provided in paragraph 2 of article 22 of this Code can be checked by the administration of detention facility and shall be forwarded within three days after they have been accepted

166. According to the Criminal Procedural Code of Mongolia (2002), the Investigation Unit at the General Prosecutor's Office shall receive complaints and any information regarding the crimes and tortures committed by an inquirer, investigator, prosecutor or a judge. The activities of this Unit have been well defined, so it can act within its powers.

167. Since its establishment in 2002, through 2009, it has received over 132 complaints and information regarding tortures and torture crimes and conducted relevant examinations.

168. In 33 instances (25 per cent of total complaints) proceedings have been instituted, 10 of them (30 per cent) have been settled in court and the remainder have been dropped in the course of legal procedures.

169. At the detention facilities there are no expert trainees to deal with women, minors, or persons of different races, or religions as no such necessity has risen so far in Mongolia.

Article 14

Compensation

170. As stated in paragraph 14 of article 16 of the Constitution of Mongolia, a citizen of Mongolia shall enjoy the right to be compensated for the damage illegally caused by others.

171. In accordance with article 120 of the Criminal Procedural Code of Mongolia, when civil claim has been raised in the context of criminal offences, the amount of damages, compensation methods, conditions and procedures shall be determined by the Civil Code, Labor Law and other laws of Mongolia. According to paragraph 1 of article 497 of the Civil Code of Mongolia, a legal person, who caused damage to others' rights, life, health, dignity, business reputation or property deliberately or due to negligence (inaction), shall compensate for that damage. Paragraph 2 of article 498 of the same Code stipulates that if a government official causes damage to another party as a result of a wrongful decision or other form of misconduct (inaction), the administrative bodies that employ the officer, or the State, shall be liable for the damage unless otherwise provided by law.

172. Chapter 44 of the Criminal Procedural Code of Mongolia (arts. 388–397) concretely defined the issue of compensation for damages to a citizen caused by illegal actions by an inquirer, investigator, prosecutor and a judge.

173. Although the clause “compensation for tortured persons” has not been precisely defined in this Code, the issue of compensation of damages for illegal sentencing, arrest, detention, temporary suspension from duty, keeping under medical facilities of a citizen and injury caused using a compulsory medical treatment, regardless of the guilt of an inquirer, investigator, prosecutor and a judge, shall be handled by the State.

174. The clauses of the law have legalized some of the important issues, such as the right to be compensated, the grounds for compensation, compensation for damage to properties, compensation for mental distress, restoration of awards and titles, compensation for legal entities as well as to give reference regarding illegal activities, explain compensation rights, issue claims for the compensation of damages and to resolve claims for compensation.

175. The Supreme Court of Mongolia has ruled that compensation for damage caused by illegal acts by an inquirer, investigator, prosecutor and a judge shall be granted from the State reserve fund and must be reflected in court decisions. Therefore, the compensation issues are to be settled through the Cabinet forum on each occasion.

176. For example, approximately 500,000,000 tugrugs Mongolian currency have been allocated from the State reserve fund in order to compensate 20 of citizens and organizations who suffered damages as a result of illegal activities carried out by an inquirer, investigator, prosecutor and a judge.

177. Also, in order to compensate citizens and legal entities injured by the wrongful activities of the State officials, 3,400,000,000 tugrugs have been budgeted in the year of 2009 and compensations of damages of previous years are to be made accordingly.

Article 15

Evidence

178. Materials or information on the circumstances of the crime that have been obtained by legal procedures shall be counted as evidence.

179. As stated in paragraph 4 of article 79 of the Criminal Procedural Code of Mongolia, if the related procedures have not been respected during the period of collecting materials, they shall lose their status as evidence and shall not constitute grounds for court decisions.

180. Intimidation, torture and other cruel, inhumane or degrading treatment or punishment or other measures harmful to a citizen's life and health shall not be applied to obtain testimonies, explanations and conclusions during the evidence collecting process.

181. According to article 256 of the Criminal Code, making a witness or victim give a false testimony, or an expert witness render a false opinion or an interpreter do false interpretation through violence, bribery or threats to destroy property shall be punishable by 200 to 300 hours of forced labour, a fine equal to 51 to 100 times the minimum salary, or imprisonment for a term of up to three years.

182. In other words, the Criminal Code and the Criminal Procedural Code of Mongolia encompass the principle that punishment cannot be applied based on evidence collected through illegal means.

Article 16

Prohibition of torture

183. Within the frame of legal reform in 2002, in order to implement article 16 of the Convention, the following clauses were placed in the Criminal Code, the Criminal Procedural Code, the Court Decision Enforcement Law and the Law on Enforcement of Decision regarding Course of Arrest and Detention of the Accused and the Suspect and other procedures and instructions pursuant to these instruments.

184. Paragraph 1 of article 7 of the Criminal Code of Mongolia reads, "Punishment and measures of coercion to be imposed to a person who committed a crime may not have the purpose of inhumane, cruel treatment or degrading his/her honour and dignity."

185. The Criminal Procedural Code of Mongolia contains many clauses stating principles including:

- No person shall be arrested beyond the procedures and grounds defined by this Code (art. 10, para. 1)
- Without the consent of a prosecutor or a judge, no person shall be kept under medical facilities for examination, or detained without the consent of a judge (art. 10, para. 2)
- No person shall be subjected to torture or to inhumane, cruel or degrading treatment (art. 10, para. 4)
- It is forbidden to force a suspect to give testimony or treat him/her in a cruel, inhumane or degrading manner (art. 81, para. 2)

186. Furthermore the Law on Enforcement of Decision regarding Course of Arrest and Detention of the Accused and the Suspect contains several underlining regulations, which are:

- It is forbidden to use torture or other means to physically torment and subject the arrested person to duress (art. 3, para. 2)
- Inhumane treatment of the accused or sentenced persons by the staff of detention facilities is prohibited (art. 10, para. 3)
- It is forbidden to investigate or subject to duress, the accused or the sentenced person who has issued a claim, proposal and complaint regarding his/her protection of legitimate interests; staff found responsible for such actions shall be punished (art. 22, para. 7)

187. In cases where the life or health of the accused or the sentenced is in danger or where he/she has been threatened or assaulted by another accused or sentenced person, the chief of detention facility shall immediately take appropriate measures to ensure his/her security (art. 20, para. 1).

188. A working group was established by the Justice Minister's Order No. 114 of 2008 with the duties to compensate persons having suffered damages as a result of groundless arrest or detention or false conviction and to examine and initiate proposals on determining the amount of compensation for the mental distress endured for every hour of false detention. These duties are being carried out.

189. In paragraphs (c) and (d) of the recommendations and conclusions made by Mr. Manfred Nowak, the Special Rapporteur on the question of torture, it is recommended that the permission to detain legally arrested person shall be issued within 48 hours and custody registers shall be scrupulously maintained.

190. To implement the said recommendations "The Internal Procedure on Detention Facilities" has been revised by the related orders of the Justice Minister. In order to supervise detention facilities so as to prevent tortures which may occur, and to settle immediately complaints, proposals and requests issued by the accused persons, starting from January 2008 the review prosecutors from the Capital City Prosecutor's Office are working four shifts in 24 hours at the Detention facility "Gants Khudag." According to articles 58 and 59 of the Criminal Procedural Code of Mongolia, a person subject to an arrest resolution shall be accepted in the presence of police staff; in cases where the arrest period has expired or when the detention decision of the court has not been handed within the time period established in law, he/she shall immediately be released by resolution of the chief of detention facility. In 2007, 3,268 suspects were accepted at detention facilities and 2,075 of them were released and in 2008, 3,487 suspects were arrested and 1,478 persons were freed. These actions were carried out under the supervision of the prosecutors.

191. Since it is the prosecutor's duty to combat against tortures during inquiry and investigation proceedings, many notable achievements have been reached in this regard.

192. The maintenance of the procedures and grounds for the arrest of the suspect and the accused is of crucial significance in the protection of human rights and freedoms. To this end, in order to examine and to prevent faults made by an inquirer, investigator, prosecutor or a judge during an extension of the period of inquiry and investigation proceedings and to conduct the proceedings in accordance with the Criminal Procedural Code of Mongolia, "The Procedure on Regulating of Some Arresting and Detention Proceedings" has been issued along with the Supreme Court of Mongolia.

193. According to the above procedure, in the case where a suspect has been arrested in exigent situations, an inquirer or an investigator shall hand the arrest resolution to a prosecutor within 24 hours from its issuance; this was intended to eliminate the previous malpractice.

194. Also, an inquirer or an investigator bears the responsibility to inform the parents, legal representatives or advocates of an arrested minor of his/her arrest within 12 hours.

195. As of 2007, the Investigation Unit at the General Prosecutor's Office had taken action with respect to seven crimes involving duress, threat and deceit by an inquirer or an investigator aimed at obtaining testimony and in 2008, four such crimes were settled.

196. In 2007 and 2008, none of the crimes stated in article 248 (recognizing as a suspect, charging and sentencing of a knowingly innocent person) and article 249 (knowingly illegal detention or custody) of the Criminal Code of Mongolia were committed.

197. In cases where there is sufficient evidence to prove that interpretations and opinions made by an expert, testimonies delivered by a suspect, accused, witness, victim or an interpreter to cases under the prosecutor's review or decided by court, are found questionable, or that the related proceedings by an inquirer or an investigator were not conducted in conformity with the procedures and conditions provided in laws, a prosecutor may institute criminal proceeding and collect evidence in the manner set out in the law in order to potentially resolve the case. The above proceeding is now to be conducted according to the revised "Methodical Instruction on Investigation Proceedings" of 2009, designed to suppress any illegal acts that might be carried out by an inquirer or an investigator.

198. The issue of room changes at the detention facilities was legalized by the Joint Order No. 347/A173 of 13 December 2006, of the General Prosecutor and the Head of the Court Decision Enforcement Authority of Mongolia. According to this Order, urgent changes of rooms of a suspect and an accused must be made only on the basis of the prosecutor's permission; this regulation is of potential significance as a means of preventing tortures and intimidation by inquirers and investigators.

199. The examination of "Detention facilities" by the General Prosecutor's Office of Mongolia is conducted on a permanent basis and two out of 25 detention facilities have been found to be unsatisfactory. Offences involving mistreatment occurred only in one detention facility at Selenge aimag.

200. During his stay in Mongolia in 2005, Mr. Manfred Nowak visited some of the detention facilities at the Court Decision Enforcement Authority and submitted conclusions and recommendations in this regard. Since that time, the Authority has taken the following activities.

201. Following the plans to construct the walls of detention facilities according to a single, standard design, ten facilities were surrounded by cemented blocks (with dimensions 5.5m–6.5m in height and 0.4m–0.6m in width) in 2007 and two facilities in 2008 with the same cement blocks. Moreover, new buildings for approximately 3,500 prisoners were built at ten of detention facilities. The legal requirements and international standards were maintained as the single rooms in these buildings have the capacity to hold up to six-eight prisoners and each floor has toilet and fully equipped with hot water showers. The buildings and libraries for the prisoners were repaired as well.

202. In Mongolia, 6,000 persons are sentenced to imprisonment annually, of whom 3,500 (over 50 per cent) can now be kept in new buildings at detention facilities.

203. The Internal Procedure on Detention Facilities was revised by the Justice Minister's Order No. 78 of 9 September 2007 and is applicable in the day-to-day activities of detention facilities. According to this Procedure, a suspect must be accepted in the presence of police staff and shall be checked with medical examinations every two weeks. Related records must be attached to his/her case folders.

204. With the purpose of improving the lighting and air-conditioning at municipal detention facilities and to increase the square metres per person, the step by step expansion work has commenced at some detention facilities. For example, the detention facility at Tuv aimag has been expanded accordingly, with each room connected to both pure and waste water systems. Moreover, lighting and air-conditioning have been improved; prisoners' beds have been double fixed to the floor. The most important progress is the fact that not less than 2.5 square metres have been allocated per person. The detention facility at Darkhan-Uul aimag has also been fully repaired.

205. By the amendment to the Criminal Code of Mongolia, of 1 February 2008, eight infractions, which were considered as crimes in the previous Code, were no longer considered as such, while the maximum and minimum periods of sentences for certain types of crimes have been reduced. Within this framework, 705 prisoners have been released, periods from two to ten years have been deducted from the sentences of 611 prisoners, and the sentences of 747 prisoners have been reduced (out of total 2,063 prisoners).

206. Six out of the 50 prisoners who have been sentenced to the death penalty have been spared by imprisonment to 30 years and they have not only been provided with rights spelt in laws and procedures and subsistence supplies but also a possibility to take part in computer and foreign language trainings.

207. In November 2008, delegations led by Mr. Tieri Mierat, Head of the East Asian Office of the International Committee of the Red Cross and Mr. Hernán Reyes M.D., Expert of the Committee visited the Central Detention Facility No. 401, a detention facility for minors, a tuberculosis hospital and a detention facility at Tuv aimag. They issued a unanimous conclusion that the conditions of the prisoners, as well as the activities carried out in these facilities are in full accordance with international standards and norms.

208. Attention is paid to the expansion and intensification of the training and social worker divisions at decision enforcement authorities. In order to capacitate the social workers and to develop social work at centralized detention facilities, "Socialization Program for Prisoners in 2008–2009" has been approved and applied in all detention facilities. It was decided that upon their release, all prisoners must be provided with Civil ID certificates and so far the Centre for Civil Registration and Information has issued proper ID certificates to 52 prisoners. Within the framework of prisoner socialization activities, the preparatory work for establishing vocational training centres at some of the detention facilities has been completed, and with the permission of the Labour and Social Security Authority of Mongolia, training on decoration, bricklaying and fitting has been provided to 95 prisoners at Detention facility No. 421 at Amgalan area, and had commenced in the Detention facilities at Govisumber aimag (No. 425) and at Darkhan-Uul aimag.

209. According to the Justice Minister's "Internal Procedure on Detention Facilities", detention staff shall treat the prisoner as they would any citizen (art. 7, para. 1) and shall not discriminate against prisoners on a basis of sentence, race, ethnic origin, religion, opinion and education (art. 7, para. 2). The above clauses are compatible with the Convention.

210. The survey has included the General Prosecutor's Office, the Supreme Court, the General Police Department, the Ministry of Defence, Border Defence Authority, the Court Decision Enforcement Authority, the Ministry of Education, Culture and Science and the Investigation Unit at the General Prosecutor's Office of Mongolia in order to examine whether the cruel, inhuman or degrading treatments or punishments other than torture, which is placed in article 16 of the Convention or in Mongolian legislation, have been

committed by the State organs and their officials, and whether these crimes had been resolved by disciplinary sanctions. The survey revealed the following:

- The survey of the last four years made by the Investigation Unit at the General Prosecutor's Office shows that it received 1,708 complaints and claims regarding cruel or inhuman treatment by an inquirer, investigator, prosecutor and a court and examined 12 cases related to 19 officials of which six were submitted to the prosecutor's discretion
- The survey forwarded by the Ministry of Defence affirms that from 2001 through - 2004 and the first 5 months of 2005, it registered 29 incidents of mistreatments by military officials, including, bodily injuries to squadron private B, private M and private S as a result of a group beating by squadron private B, private N, private A, private M and private SH at the Defence University of Mongolia, as well as a crime involving minor and less serious injuries committed by senior lieutenant T and senior lieutenant B at Armed Force Units Nos. 186 and 326

211. On every occasion that incidents of mistreatment to a suspect, defendant and an accused have been the subject of court decisions, enforcement authorities have imposed disciplinary sanctions, such as dismissal from posts. Complaints and claims issued in this regard by a suspect, defendant and an accused have been settled by the police and prosecution authorities. The following table shows the results of a survey covering cases from 2004 through 2008.

<i>Year</i>	<i>Number of persons committed offence</i>	<i>Dismissed of posts</i>	<i>Disciplinary sanctioned</i>	<i>Number of cases instituted</i>	<i>Court ruled cases</i>	<i>Cases dropped</i>	<i>Under examination</i>
2004	15	11	4	3	2	1	-
2005	5	1	1	-	-	-	-
2006	2	1	1	-	-	-	-
2007	2	1	1	-	-	-	-
2008	4	1	1	2	-	1	1