



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

Distr.: General  
5 April 2022

Original: English  
English, French and Spanish only

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**Committee against Torture**

**Third periodic report submitted by Mongolia  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2020\***

[Date received: 9 July 2021]

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\* The present document is being issued without formal editing.



1. Mongolia is submitting this report in accordance with Paragraph 44 of the Concluding Observations of the Committee against Torture (hereinafter the “Committee”) on its second periodic report.
2. The current report details the steps taken by Mongolia to implement Articles 1–16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (hereinafter the “Convention”) as stipulated in Article 19(1) of the Convention.
3. The information on the implementation of each article is updated for the period of 2017 through Q3 of 2020.
4. The present report further elaborates actions taken in relation to the implementation of the Convention and provides responses to the recommendations of the Committee and additional information as requested.

## **I. General information**

5. Dialogue with the Committee, including its concluding observations and recommendations, have had a reasonable and practical effect on the implementation of the Convention.
6. Mongolia appreciates the guidance of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment towards establishing a national preventive mechanism and improving the legal environment thereof.
7. The State Great Hural of Mongolia approved the revised Law on the National Human Rights Commission (NHRC) on January 23, 2020, which ensures the integrity of the national human rights institution and stipulates the procedures and requirements for the appointment of member-commissioners of the NHRC in compliance with the Paris Principles.
8. The Law on the NHRC establishes a legal basis for appointing the member responsible for the prevention of torture, and sets out the mandate for the unit responsible for supporting this member.
9. The member responsible for the prevention of torture shall have unhindered access to establishments where human rights and freedoms are possibly restricted, including, but not limited to: prisons, detention centers, care homes for children and persons with disabilities, senior homes, school dormitories, medical treatment facilities(psychiatric and otherwise), military disciplinary facilities and temporary detention units at border checkpoints; wherein the member shall exercise responsibilities, including, but not limited to: documenting the conditions within using appropriate technical tools, transferring potential incidents of torture for investigation, and informing the public accordingly.
10. The first selection of the members of NHRC, including the member in charge of prevention of torture, was conducted online via electronic hearing in order to effectively engage the public in the process.
11. Several fundamental laws were amended as part of Mongolia’s legal reform policy during the reporting period, including the Laws on Civil Service, on Criminal Procedure, on Infringement, on Investigation and Resolution of Infringements, on Prosecutors, on Enforcement of Court Decisions, on Combating Domestic Violence, on Police in 2017, on Advocacy in 2019, on the Criminal Code in 2015, and the revision of the Law on the NHRC in 2020.

## II. Measures taken and responses to the recommendations of the Committee

### Article 1 and 4. Forms of Torture and Penalties

#### Reply to paragraph 2(a) of the list of issues (CAT/C/MNG/QPR/3)

12. The new Criminal Code defines the crime of torture under Paragraph 1 of Article 21.12 as “Any intentional act of a public servant towards the provocation of others for the purposes of obtaining descriptions or statements, to elicit false confessions, pre-emptive punishment for an act a person has or is suspected of having committed, allowing others or otherwise participating in acts inflicting physical and emotional distress to the person, and discrimination of any sort,” which is in line with Article 1 of the Convention. The offense is punishable by penalties of a fine ranging from 5,400–27,000 Mongolian togrog units or imprisonment for one to five years.

13. Article 1.2.4 of the Criminal Code further states that the terminology and concepts of the law shall be interpreted in accordance with the laws of Mongolia along with the definitions and stipulations of the international treaties Mongolia has joined and ratified.

#### Reply to paragraph 2(b) of the list of issues

14. Torture, under the Criminal Code, is a crime punishable by “penalties commensurate to the gravity of the crime, degree of social danger and form of the criminal offense committed by an individual or legal body” under Article 1.3.1, and also by penalties taking into account “all mitigating or aggravating circumstances of criminal liability such as damages, losses, and trauma to emotional state” under Paragraph 2 of Article 6.1. In cases of violation of the right to life and inviolability of human health as a result of torture, the presence of torture and ill-treatment will be recognized as aggravating circumstances that lead to harsher penalties for the defendant(s).

15. While the maximum penalty of five years is still applied under Article 21.12, transgressing upon the inviolability of human health, defined as “Intentional infliction of a grave injury to human health”, is punishable by a fine ranging from 10,000–40,000 togrog units or imprisonment for two to eight years under Article 11.1. Tortures committed “by mockery or insult to the victim”<sup>8</sup> and “causing physical or mental suffering”<sup>9</sup> shall be punishable by imprisonment for five to twelve years.

#### Reply to paragraph 2(c) of the list of issues

16. Article 1.3.1 of the Criminal Code stipulates, “Criminal liability shall correspond to the nature and degree of social danger of the criminal offence,” with Article 6.1, paragraph 2, similarly stating “circumstances of the criminal offense shall be taken into thorough account.” In the case of torture, penalties range from a fine of up to twenty-seven thousand togrog units to incarceration from one to five years (Article 21.12), with additional penalties depending on circumstances. In the case of murder, the penalty is incarceration from eight to fifteen years (Article 10.1, para. 1), with aggravated murder being punishable by twelve to twenty years or life imprisonment (Article 10.1, para. 2.12). Intentional infliction of injuries carries correspondingly lighter sentences, commensurate to crimes committed. It should be noted that the application of Article 21.12 and Article 10.1 are separate and dependent upon the gravity of crimes committed.

#### Reply to paragraph 2(d) of the list of issues

17. Statute of limitation counts are variably based on the length of sentences according to the last revision of the Criminal Code. Torture punishable by up to five years of imprisonment shall have the statute of limitation counted<sup>11</sup> under Article 21.12; however, the law imposes life imprisonment for “torturing” to death, in which case the limitation period shall not apply according to Article 10.1, paragraph, 2.12, and Article 1.10, paragraph 4.

18. The Ministry of Justice and Home Affairs is working to improve the Criminal and Criminal Procedure Codes, with the amendments set to be discussed by a Cabinet meeting. Some measures under discussion include streamlining the progression of penalty severity, removing bail for torture as it applies under Article 21.12 of the Criminal Code, disregarding statutes of limitation, and further defining “inappropriate treatment” versus “torture”.

## **Article 2. Fundamental Legal Safeguards**

### **Reply to paragraph 3(a) of the list of issues**

19. All detained persons are afforded legal safeguards from the outset of their detainment by the Constitution of Mongolia, the Criminal Procedure Code, the Law on Investigation and Resolution of Infringement, the Law on Enforcement of Court Decisions, the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Criminal Defendants, Code of Conduct of Detention, “Internal Rules and Regulations of Detention Facilities”, Procedures for Provision of Medical Care for Detainees, Treatment in Medical Institutions and Visitation of Medical Specialists to Detention Centers.

20. Article 16, paragraph 13, of the Constitution pertains directly to the fundamental legal safeguards afforded to detainees from the outset of their deprivation of liberty. Privacy of citizens, their families, their correspondence and homes are protected by law, and under Article 5.1 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused, which states, “arrested and detained persons shall be afforded the rights and liberties of a citizen of Mongolia except as restricted by this law.” Article 17.1.4 further states, “Detainees shall have the right to meet with a lawyer and receive legal assistance” and Article 19.1 of the “Internal Rules of Detention” stipulates “Detainees shall be entitled to the right to be represented by an attorney of their choice at any time.”

21. A suspect is presented with a decree to initiate a criminal case according to Article 31.3, paragraph 3, of the Criminal Procedure Code, after which the rights of the defendant are explained, recorded and signed as specified in Article 7. Suspects are informed of the grounds for their arrest, their right to hire an attorney, appeal to upper courts, and right to not self-incriminate as specified in Article 1.8, Paragraph 3, of the Criminal Procedure Code.

22. Procedure for organization and operation of the Legal Committee on the Rights of Children was approved by the Joint Order A51/A69 of 2017 of the Minister of Justice and Home Affairs and the Minister of Labor and Social Welfare. Upon receiving official notifications from the police or other persons concerning a minor violating the law, the Committee convenes an immediate meeting with the accused child, their legal representative, and attorney in accordance with Article 5.1.3 of the Procedure.

23. The Committee ensures the minor has an attorney assigned from the Mongolian Bar Association, other relevant body, or a state attorney from the Legal Aid Center if it finds the child is incapable of choosing a lawyer, or is insolvent at the receipt of the notification from the police or other persons (para. 40).

24. Pursuant to Article 31.6(1)15 of the Criminal Procedure Code, the investigator informs detainees of the crime they are suspected of, advises them to their right to legal assistance, the right not to make self-incriminating statements that may be used as evidence against them in court, and warns of using coercion in accordance with applicable law if the minor fails to comply with the legal requirements, before introducing the court decision on arrest or immediately after arrest.

25. Defendants must know what case they are charged with as required by Paragraph 1 and 2, Article 7.3 of the Criminal Procedure Code, which states that “the accused have the right to know the charges against them and have the right to review court decisions to prosecute them.”

26. Insolvent detainees are provided legal advice and advocacy services by a state attorney in accordance with the Law on Legal Assistance to Insolvent Defendants in order to protect and exercise their rights.

27. Detainees have the right to appeal to a court for judicial review of their arrest, detention, or release in case the arrest was made in an illegal manner under Article 7.7, paragraph 1, of the Criminal Procedure Code.

28. Detainees have the right to submit petitions, complaints and requests to any organization or official regarding matters related to them and the conditions, procedures and activities of detention centers as stated in Article 17.1.17 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused.

29. Following Article 31.6, paragraph 5, of the Criminal Procedure Code investigators notify an adult relative or legal representation of the detainee within six hours of arrest. In case the detainee is a foreign national, their respective Diplomatic Mission/Consulate is notified within six hours. Under Article 18.6, paragraph 4, a juvenile's adult relative or legal representation is notified within six hours.

30. As for measures of restraint being placed on the accused, an adult relative or defense counsel of the suspect is notified within two hours of the court order. In case the accused is a foreign national, the diplomatic mission of that individual's country or the state central administrative body in charge of foreign affairs is notified within two hours of the court order according to Article 14.13, paragraph 10.1, of the Criminal Procedure Code.

31. In cases where the suspect is a foreign national or stateless person, arrests are made pursuant to Paragraph 2.13 of the "Internal Rules of Detention Center" approved by Order No.209 of the Minister of Justice and Home Affairs on November 24, 2014. The rule and other required documents are translated as necessary and presented by the census officer, with the diplomatic or consular mission of the accused being notified immediately.

32. Detainees are provided with medical care according to Article 17.1.10 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused, wherein it guarantees their rights to receive medical care under the procedures set forth in the Law on Health Insurance.<sup>12</sup>

33. According to Article 2.3 of the Joint Order A/142 and A/47 on the "Approval of Procedure" of the Minister of Health and with the Minister of Justice and Home Affairs, dated March 29, 2019, "Medical specialists of detention facilities shall comply with the request of detainees for medical care, conduct medical examinations without delay, as well as provide necessary diagnoses and treatments."

34. Emergency medical care is provided pursuant to Article 3.11 of the "Detention Facility Regulation and Procedure" approved by Order A/185 of the Minister of Justice and Home Affairs on July 5, 2017, where it states that "Emergency medical care and medical services shall be provided to detainees in case of need, regardless of time. Detailed information on medical care, services, treatment provided along with the medical staff who provided services shall be recorded kept attached to the personal file of the detainee."

35. Article 2.2 of the Joint Order A/214 and A/462 on "Approval of Procedure" of the Minister of Health and the Minister of Justice and Home Affairs dated November 19, 2018, rules that "In case of severe symptoms, uncertain diagnosis, need for additional diagnosis and testing, or if the diagnosis is clear but the treatment results are insufficient, the detainee shall be transferred to a specialized hospital or aimag based medical center upon issuance of the decision by the General Hospital and Supervision Commission."

#### **Reply to paragraph 3(b) of the list of issues**

36. Following Article 31.6, paragraph 5, of the Criminal Procedure Code, investigators notify an adult relative or legal representation of the detainee within six hours of arrest. In case the detainee is a foreign national, their respective Diplomatic Mission/Consulate is notified within six hours. Under Article 18.6, paragraph 4, a juvenile's adult relative or legal representation is notified within six hours.

#### **Reply to paragraph 3(c) of the list of issues**

37. There are no restrictions on a detainee's right to see his or her family members that is conditional upon confession. Training has been provided for investigators and prosecutors to

raise their awareness on reasons to avoid forms of confession, stressing the use of evidence to establish guilt.

**Reply to paragraph 3(d) of the list of issues**

38. The Joint Order No. A/186 and A74 of the Minister of Justice and Home Affairs and the Prosecutor General of 2017 on “The Council Mandated for Determining Prison Security Levels and The Grade of Prisons for Newly Sentenced Prisoners” and “Rules of Operation of the Council” have been effective since it was approved on July 4, 2017.

39. The Council responsible for determining prison security levels and the grade of prisons for newly sentenced prisoners establishes or makes decisions based on the principle of allocating prisoners to a facility at a reasonable distance from their families or place of residence. The Prosecutor’s Office monitors and oversees the compliance with the regulations. During the reporting period, the Prosecutor’s Office did not receive any complaints from detainees or their families.

**Reply to paragraph 4(a) of the list of issues**

40. The counting period from the time of arrest of a detainee has been further refined in the Criminal Procedure Code adopted in 2017. Period of detention for investigation of the detained was shortened by the Code. For instance, according to the previous Code, the main period of detention of an accused was two months; but pursuant to Article 14.10 of the new Criminal Procedure Code, this period is set to be one month.

41. According to Article 14.9(1) of the Criminal Procedure Code, remand in custody is imposed only by a court decision.

42. Due to the complexity of cases, detention periods may be extended if the court deems it necessary. The total term of detention of an accused shall not exceed 12 months for crimes punishable by up to five years in the Criminal Code and 18 months for crimes punishable by more than five years in the Criminal Code.

43. Paragraphs 1 and 7 of Article 14.13 of the Criminal Procedure Code provide for the possibility of changing, revoking or extending the measure of restraints such as detention and remand in custody. During the reporting period, there were 528 cases of pretrial detentions being replaced by other measures of restraint.

**Reply to paragraph 4(b) of the list of issues**

44. The decision to impose measures of restraints shall be made by court, and the period of detention shall begin to be counted upon the issuance of a judge’s order to detain the accused.

45. Article 31.9 of the Criminal Procedure Code regulates the period a person can be detained in custody. In the case where the arrest is made pursuant to a decision by a competent judicial authority, the period of arrest shall be counted from the time the court decision on arrest is presented to the suspect according to Paragraph 1 under Article 31.9. For arrests without court order, the period of arrest shall be counted from the moment of provision of warning on use of coercion in accordance with the relevant law or from the moment of introducing these rights.

46. According to Article 6.10 of the Criminal Code, the court shall include the period of arrest and detention of the accused into the term of conviction. The Code stipulates that one day of arrest and detention shall be deducted from the monetary fines equal to fifteen togrog units, eight hours of community service and restitution, one day of travel restriction, or one day of imprisonment.

47. In the case where the defendant is re-detained for the same case or in a separate or consolidated case, the period of previous detention shall be included in the total period of detention.

48. Time of arrest counts as part of the period of pretrial detention or remand time. Article 14.10, Paragraph 5, of the Criminal Procedure Code stipulates that up to 24 hours of detention is counted as one day of time served.

49. The Prosecutor's Office monitors the implementation of the above provisions of the Criminal Procedure Code. According to Article 6.10 of the Criminal Code, time of arrest, under warrant, and pretrial detention are included into the term of conviction and is specified in the sentence.

#### **Reply to paragraph 4(c) of the list of issues**

50. Article 26.1 of the Law on Police provides that "a police officer may detain a suspect for up to six hours in order to clarify the name and address of the individual suspected of committing a crime or violation, or to determine whether there are grounds for detention or investigation in connection with the concerned crime or violation."

51. A detention center is a unit that receives and enforces a detention order (arrest warrant) on the grounds specified in the law, and the "Detention Center Regulation" is approved and enforced by the Cabinet Member in charge of internal affairs in consultation with the Attorney General.

52. As Article 2.1 of current regulation states "The detention center shall provide an environment and conditions that meet the health and safety requirements of employees and customers, such as hot and cold water, sewerage systems, natural lighting and ventilation systems," detention premises are equipped with a kitchen, toilet, storage room for detainees' clothing, personal documents and other belongings.

53. Detention premises/units must be kept at temperature no lower than 18oC degrees during cold season, with humidity in the 40–60% range, adequate natural lighting and ventilation during the day with a light switch for nighttime, and with the recommended minimum area of 2 sq.m of space per person detained.

54. The NHRC and the Prosecutor's Office carry out regular inspections in detention premises any given time of day throughout the country to ensure that the living conditions and operations activities of detention facilities meet the requirements of international treaties, laws and regulations. In case a violation is detected, the prosecutor submits a request to the police to rectify the violation and measures are taken to correct the violation accordingly.

#### **Reply to paragraph 4(d) of the list of issues**

55. Article 31.5 of the Criminal Procedure Code provides for the arrest of a suspect without a court order: "If an investigator arrests the suspect in accordance with Article 31.5(3) of the Criminal Procedure Code, the matter shall be resolved by the competent court within 24 hours."

56. The court shall make a decision to release the arrested suspect on the grounds specified in Article 31.12 of the Criminal Procedure Code. This may occur in cases where there is insufficient evidence of a crime, a prosecutor's decision to initiate a criminal case or a court decision to issue a detention order was not received, or the arrest was made in violation of the grounds for arrest without a court order and 48 hours have passed since the arrest.

57. Prosecutors work 24 hours a day to ensure full compliance and enforcement of laws so that no detention is continued beyond 48 hours after the suspect's arrest without a court order under extenuating circumstances.

#### **Reply to paragraph 4(e) of the list of issues**

58. Only a competent judicial authority (court) issues an arrest warrant or permission order at the investigative stage, and only the court takes pretrial detention and remand measures at the trial stage.

59. Article 31.5, paragraph 2, of the Criminal Procedure Code provides that an investigator shall immediately notify a prosecutor upon the arrest of a suspect, and the prosecutor shall expeditiously submit its decision to court, thereby guaranteeing the fundamental legal and procedural safeguards (see para. 50).

**Reply to paragraph 4(f) of the list of issues**

60. Article 17 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused specifically guarantees the rights of detainees. The right of pretrial detainees for visiting arrangements is stipulated in Article 17.1.15 of this Law. In order to ensure the confidentiality of the investigation, the exercise of this right is governed by special procedures. Hence, the investigator during the investigation stage, the prosecutor at the prosecutor's review stage, and finally the judge at the judicial review stage grant permission for visits and meetings.

61. An individual who has been granted permission to meet with a detainee is allowed to meet under the supervision of the detention center. However, the detainee's attorney does not require any permission to meet with the detainee. Within the limits of the powers provided for by the Constitution of Mongolia, a prosecutor is responsible for overseeing the entire process of arrest and detention to ensure that the rights of detainees are exercised as guaranteed.

**Reply to paragraph 4(g) of the list of issues**

62. The Criminal Procedure Code emphasizes the significance of avoiding pretrial detention and explicitly identifies the grounds for detention, and encourages the use of alternative measures of restraint in the absence of legitimate grounds for arrest and detention.

63. Chapter 14 of the Criminal Procedure Code clearly states the purpose and types of measures of restraint. Specifically: 1/issuance of a personal guarantee; 2/suspension of performance of certain activities or of official duties; 3) imposition of restrictions; 4) securing collateral; 5) detention; and 6) referral to supervision by the command of a military unit.

64. The defendant and their legal representative may request the prosecutor to change or revoke the measure of restraint during the criminal proceedings. The prosecutor, the defendant and their legal representative may submit to the court a proposal or request to take, change, revoke or extend the measure of restraint specified in Articles 14.1, 1.2, 1.3 and 1.5 of this Code at any time during the criminal proceedings. The court shall decide whether to change the measure of restraint in accordance with the aforementioned provisions.

**Reply to paragraph 4(h) of the list of issues**

65. Article 7.7, paragraph 6, Article 8.2, paragraph 1.12, and Article 45.1, paragraph 1, of the Criminal Procedure Code safeguards the rights of victims of unjustified prolonged pretrial detention to file complaints against courts, prosecutors, and investigators for violation of the law and seek compensation or redress for loss or damages caused by the violation.

66. Moreover, Chapter 45 of the Criminal Procedure Code fully regulates the compensation procedure for damages caused by failure of compliance with the law by courts, prosecutors, and investigators during criminal proceedings. Article 45.2, paragraph 1, of the Code states, "The state shall be liable for damages caused by unlawful conviction, arrest, detention, or torture, regardless of the guilt of the investigator, prosecutor, or judge."

67. The compensation fund for victims of unjustified prolonged pretrial detention is regulated pursuant to Article 5.3.4 of the Law on Government Special Funds and Article 10 respectively, in addition to the state organizing compensation for victims of the offense based on 21 provisions of the Special Part of the Criminal Code. The amount of compensation to be paid to a victim of a crime shall be determined by the valid order of a competent judicial authority to redress the loss or damage caused by the offender. Expenditure of the fund for the period covered by the report since 2016 is shown in the table below. A total of 200 victims received 1.1 billion MNT for compensation.

#	Year of compensation payment	Recipients/victims/	Amount of compensation /thous. MNT/
1	2016	60	234.738.816
2	2017	39	83.075.873
3	2018	31	160.614.925
4	2019	37	223.905.082
5	2020	33	411.780.752
<b>Total</b>		<b>200</b>	<b>1.114.115.448</b>

68. Article 45.6(2) of the Criminal Procedure Code stipulates “In case the criminal proceeding is proven to be illegal after the information that an accused individual had been taken under restraint or remand had been reported to the media, the relevant inquiry and investigatory bodies, prosecutors and courts shall make corrections to the information and inform the media within seven days of the decision being made.”

69. Pursuant to Article 44.2 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects, the head of the detention center shall notify the official who issued the detention order and the relevant prosecutor in writing of the expiration of the detention period of the accused individual at least 24 hours in advance.

70. No indefinite detentions were reported during the period under review.

#### **Reply to paragraph 4(i) of the list of issues**

71. As of the first nine months of 2020, 585 people were arrested at primary detention centers and 290 at local detention centers during emergency operations. During this period, there were 8 arrests made without court order or during urgent investigations by resolution of investigators or prosecutors.

#### *Impunity for Acts of Torture and Ill-treatment*

#### **Reply to paragraph 5(a) of the list of issues**

72. A Working Group was established by Order A/104 of the Minister of Justice and Home Affairs dated June 12, 2019, to resolve complaints filed by citizens alleging that their right to freedom from torture had been violated during the reporting period. In 2018 and 2019, petitions of 44 citizens who complained of torture and inhuman treatment committed by relevant government officials, in particular police officers, were reviewed and transferred to the General Prosecutor’s Office. According to the information provided by the General Prosecutor’s Office, 25 complaints were transferred to the relevant investigative authorities in July 2019, and 19 complaints were dismissed on the grounds that they were not criminal in nature by prosecutor’s decree.

73. In 2016, the Prosecutor General’s Office received 54 reports on allegations of torture, of which 10 were investigated and prosecuted, 33 were not initiated into criminal cases, and 11 were not accepted by the prosecutor. In 2017, a total of 67 reports were filed, of which 6 were investigated and prosecuted, and 61 were refused. In 2018, a total of 69 reports were registered, of which 46 were investigated and prosecuted, 22 were refused, and 1 resolution by investigator was revoked. In 2019, a total of 87 reports were filed, of which 13 were investigated, 34 were refused, 39 were transferred to relevant jurisdictions, and 1 resolution by investigator was revoked.

#### **Reply to paragraph 5(b) of the list of issues**

74. A draft law amending the Criminal Procedure Code to restore the Investigative Service Unit under the General Prosecutor’s Office was completed and submitted to the Parliament, however it did not receive sufficient support from the legislative authority. The Government Action Plan for 2020–2024 sets a goal of improving the performance of law enforcement agencies in Mongolia.

75. In connection with the entry into force of the Criminal Code and the Criminal Procedure Code on July 1, 2017, the Prosecutor General issued Order A/67 on June 30, 2017, titled “Complaints and Reports on Criminal Acts, Regulation and Investigation of Criminal Cases and Establishment of Jurisdiction by Prosecutors,” which was revised by Order A/33 of March 24, 2020.

76. The Government of Mongolia’s policy guidelines for improving legislation include the development of a draft law on the Investigative Service. The draft law intends to grant the Investigation Authority the right to investigate torture and ill-treatment so that the department is specialized, concentrated and trained in the field.

**Reply to paragraph 5(c) of the list of issues**

77. For clarification of the three cases concerning complaints of torture investigated by the Investigation Office of the General Police Department which was mentioned in the Committee’s previous concluding observations, two of the complaints were not initiated into criminal cases, and the remaining one was dismissed with no appeal being lodged to date.

**Reply to paragraph 5(d) of the list of issues**

78. (See para. 67) The Prosecutor General has jurisdiction over investigating criminal complaints and reports, as well as criminal cases committed by police officers. Torture cases committed by police officers are to be investigated by the Anti-Corruption Agency.

79. Article 4.6 of the Criminal Code regulates the principle of culpability as a condition of criminal liability and states “It shall not be considered a crime for a military serviceman or law enforcement officer to harm the interests protected by this law by unknowingly carrying out an illegal written or oral order given by a higher-ranking official. The official who gave the illegal order or instruction shall be considered the executor who committed the crime.” Paragraph 2 of the Article states “If a military serviceman or law enforcement officer is given an obviously illegal order to commit a criminal act or inaction, and he/she intentionally fulfills it despite having discretionary authority not to act upon it, he/she will be considered to be the perpetrator of the crime,” with the order-issuing officer being considered a perpetrator of crimes using others.

80. Moreover, Article 5.4 of the Law on Police states “a police officer has the right to refuse to comply with an illegal decision made by a higher-level police officer or official and to explain his or her reasons.” This is not only a guarantee of non-compliance with orders or instructions to allow or support torture, but also ensures that no liability is incurred for non-compliance with such decisions.

**Reply to paragraph 5(e) of the list of issues**

81. Article 2.3 of the Criminal Procedure Code defines the jurisdiction to initiate cases, conduct inquiries and investigations. According to the Code, intelligence agencies, the police, and the Anti-Corruption Agency may jointly conduct inquiries and investigations by decision of a prosecutor. A prosecutor shall determine the jurisdiction of a crime that is investigated by more than one body (see para.75). The Anti-Corruption Agency has been investigating allegations of torture by police officers since July 1, 2017. In 2017–2019, 189 criminal complaints and 105 criminal cases were investigated.

82. Article 6.1, paragraph 2, of the Criminal Procedure Code clearly defines the crimes to be initiated and investigated by the Anti-Corruption Agency. Specifically 22.1 of the Criminal Code /abuse of power and position/, 22.3 /use of power by officials of foreign state organizations and international organizations/, 22.4 /Taking bribes/, 22.5 /Giving bribes/, 22.6 /Bribery of officials of foreign state organizations and international organizations/, 22.7 /Illegal use and loss of state resources/, 22.8 /Misappropriation of budget funds/, 22.9 /Misappropriation of non-budgetary state property/, 22.10 /Unjustified use of power for undue profit/, 22.11 /Arbitrary Action/, 22.12 /abuse of power of a legal entity/ shall be subject to inquiry and investigation.

83. In addition, an inquiry and investigation shall be carried out into money laundering crimes specified in Article 18.6 of the Criminal Code, which were discovered during the inquiry and investigation of corruption crimes specified in Chapter 22 of the Criminal Code.

84. The revised 2015 Criminal Code provides more specifics of this crime in Article 21.12. The prosecutor shall determine the jurisdiction of the criminal cases specified in Article 21.12, as the subject of them shall be a “civil servant” being in most cases the “employee of an investigative body.” Further according to Article 1.3 of Order A/33 of March 24, 2020, on Complaints and Reports of Crimes, Investigation of Criminal Cases and the Establishment of Jurisdiction by Prosecutors, the Anti-Corruption Agency is responsible for investigating complaints and allegations of torture committed by police officers in the workplace.

**Reply to paragraph 5(f) of the list of issues**

85. Article 45.2(4) is open to interpretation depending on individual circumstances. If the officials in question were potentially criminally liable, a separate investigation would be launched and said officials would be charged to the full extent of applicable criminal laws.

**Reply to paragraph 5(g) of the list of issues**

86. Article 22.4 of the Law on the Police prohibits police officers to torture, treat others in an inhuman or cruel manner or to insult their dignity. The Law on Police that was passed in 2013 was repealed in 2017. Article 82.1.2 of the revised Law on Police, enacted in 2017, has a new provision stating that if a crime is proved against a police officer and a court decree enters into force, it shall constitute a ground for their dismissal. An officer who violates Article 22.4 of the Law on Police shall be punishable under the Criminal Code. To illustrate, if an inquiry officer or investigator forced defendants to confess or testify by using or threatening to use torture, ridicule, deception, or other illegal methods and tools, they shall be punishable by deprivation of the right to hold a certain position or conduct professional duty for a period of up to three years, or by imprisonment for a term of up to five years.

**Reply to paragraph 5(h) of the list of issues**

87. Article 4.6 of the Criminal Code regulates the implementation of orders and instructions (see paras.79–80).

**Reply to paragraph 5(i) of the list of issues**

88. Article 3 of the Law on Police provides for the adherence of rule of law, humanity, respect for human rights and freedom in the process of implementing detention measures and making arrests. The law prohibits the use of torture or other cruel, inhuman or degrading treatment or punishment of detainees or detainees.

89. Article 251.1.5 of the Law on Enforcement of Court Decisions prohibits detention units, prisons, and their staff from treating detainees in inhuman, cruel, and degrading manners.

90. Article 2.1 of the “Code of Discipline and Ethics of Judicial Enforcement Officials” approved by the Order A/183 of the Minister of Justice and Home Affairs in 2018 states that “employees shall strictly adhere to the following ethical and disciplinary norms” whereby Article 2.1.6 rules “Defamation, inhuman and cruel treatment of convicts, prisoners and detainees, using physical force without grounds and procedures provided by law” are to be prohibited. Appropriate measures of enforcement of laws and regulations are in place pursuant to Article 6.1 where it stipulates “Violators to be subject to disciplinary action under the Law on Enforcement of Court Decisions, the Civil Service Law, and other relevant laws.”

91. The State Central Administrative Authority in charge of Health Issues is responsible for providing prison hospitals with technical and methodological assistance, and human resources. According to Article 207.4 of the Law on Enforcement of Court Decisions, newly sentenced prisoners shall be screened by an independent physician upon their arrival to meet the Istanbul Protocol standards. Via medical evaluation, whether the convict was tortured or threatened can be established, and physical and mental health conditions will be assessed.

92. Through continued efforts made to educate officers on human rights, strengthening their respect for such, and improving their treatment of others, officers have an increased understanding of them being held accountable for any act of torture, participation in, or cooperation with any form of physical torture or threats. The departments conduct training independently and with their own budget, but the resources lack to meet the high demand for such services. Hence, there is a real need for cooperation with the Committee for delivering specialized training to upgrade the qualifications of all departments.

**Reply to paragraph 5(j) of the list of issues**

93. Setting up or use of a special room for collecting self-incriminating statements using torture, cruel or inhuman treatment, inflicting harm on reputation or dignity, and abusing suspects physically or mentally are all prohibited.

94. Pursuant to Article 25.1 of the Criminal Procedure Code, the Prosecutor General's Office issued Order A/57 in 2017 approving the "Requirements for Interrogation Room" which is enforced by the investigatory authority and its rural departments. This requirement is aimed at creating conditions for the normal conduct of investigations, which include interrogation, confrontation, identification of individuals, avoiding torture and inhuman or ill-treatment, safeguarding human rights and freedoms, and ensuring safety. For full compliance with these requirements, interrogation rooms are equipped with audio-visual recording devices and monitoring systems.

95. The prosecutor is responsible for verifying that the interrogation rooms meet the standard requirements. The prosecutor's office inspects the designated interrogation rooms and ensures that audio and video recorders are installed, are functional, and are placed visible to participants in criminal proceedings.

96. The prosecutor's office has also inspected the operation of all 168 interrogation rooms at police stations across the country. As of 2020, the total number of designated interrogation rooms counted 193.

97. Defendants and their attorneys may view the transcripts of interrogations made using special equipment in the interrogation room. Pursuant to Article 13.1.10 of the Law on Advocacy, attorneys are guaranteed the right to use photographs, audio, video, audio-visual recordings, and other devices.

98. Audio and video recordings of the interrogation process may be provided upon the request of participants in criminal proceedings. Article 11.7.1 of the Criminal Procedure Code states "The secretary of the judicial session shall keep a record/minutes of the judicial proceedings specified in this Code and confirm it with audio or audio-visual recordings." Article 13.1.14 of the Law on Advocacy further provides for the right to make copies of audio and video recordings confirming the proceedings.

99. Upon completion of the investigation, the case file compiled during the proceedings shall be presented to participants in the case and to defendants. Article 32.1, paragraph 4, of the Criminal Procedure Code states "The investigator shall take measures to satisfy the request of participants to get acquainted with the physical, audio and video recordings reflected in the case file."

100. No fee is charged for the presentation of audio, video or audio-visual recordings as recorded in the investigation file.

101. Regarding the use of audio, video and audio-visual recordings of the investigation file as evidence in court, Article 16.7, paragraph 2, of the Criminal Procedure Code states "Audio, video and audio-visual recordings of the investigation, prosecutor's inspection, and the circumstances reflected in the record of the court hearing shall be considered as evidence."

**Reply to paragraph 6 of the list of issues**

102. The details provided in the previous report on the actions taken in connection with the events of July 1, 2008, remains the same and no additional information is available.

**Reply to paragraph 7(a) of the list of issues**

103. The prosecutor shall establish the jurisdiction to investigate the crime of torture (see para. 114). By order of the Prosecutor General of Mongolia, the Investigation Division of the Anti-Corruption Agency was reassigned to investigate complaints and information on “torture” offenses under Article 21.12 of the Special Part of the Criminal Code. The transfer did not reduce the number of complaints.

104. In real life practice, 50% of cases investigated were dismissed on the grounds that the statute of limitations had expired in the course of inquiry, and 3.9% of cases went to court.

105. There is a lack of regulation on the loss of evidence. Plaintiffs lack the knowledge on how to identify the damage caused at the time of the crime, and how to document and examine the evidence. There is an urgent need to prevent and educate against this type of crime.

106. It should be noted complaints and reports about torture are often used by defendants to slander investigators and other officers who are investigating them to obstruct investigation of their cases. Often the claims suggest they have been tortured, but there is little evidence of their testimony. Inability of doctors and medical staff to perform their duties adequately to strengthen the traces of health injuries, due partly to poor understanding of torture, further exacerbates the problem. Also, alleged torture victims do not seek medical attention and do not know where to file complaints, which negatively affects the ability to prove such crimes. It is even more difficult to prove in cases of emotional torture and abuse. Due to insufficiency of adequate interrogation rooms with audio-visual recording devices for interrogation, individuals are still interrogated without impartial records, making it difficult to identify situations of emotional torture or ill-treatment.

**Reply to paragraph 7(b) of the list of issues**

107. The NHRC is the third party to receive complaints about this type of crime and refer them to the appropriate authorities. The previous law on the institution provided that complaints could only be filed to a member/Commissioner of the Commission, rendering it difficult to receive complaints by the Commission since its staff members were not mandated to do so. In order to ensure the smooth running of its activity, the Commission had enabled the implementation of this provision by authorizing the Commission’s staff member/specialist to take charge of cases. The revised Law on the NHRC, adopted in 2017, seeks to resolve this problem and the difficulty faced when inspecting private entities and obtaining information evidence from them.

108. The NHRC reports annually to the State Great Hural, the legislature, on the situation of human rights and freedoms in Mongolia, including torture and grievances. The 17th and 18th reports provide detailed reports on these issues.

109. With regard to grievance redress, a member of the Commission shall exercise the powers set forth in Article 26 of the Law on the NHRC. For instance: to submit demands and recommendations to organizations, officials, and legal entities that have violated human rights and freedoms; to file lawsuits against citizens, organizations, officials, and legal entities for violations of human rights and freedoms; to participate in the judicial session in person or through a representative in accordance with the procedures established by the law. In addition, he or she may submit opinions to the competent authorities on violations of human rights and freedoms, mediate between parties for reconciliation, demand compliance, if the complaint or information is deemed to be of criminal nature transfer to the relevant organization or official in accordance with their jurisdiction, and refer to the Prosecutor General the issue of suspension of official who may have committed torture. The member of the Commission shall respond to the person who filed the complaint or report in accordance with the procedures set forth in the law on how the complaint or report was resolved.

**Reply to paragraph 7(c) of the list of issues**

110. According to Article 8.3 of the Criminal Procedure Code, investigators and prosecutors are responsible for providing information related to the security of victims, legal representatives and defense attorneys.

111. Chapter 13 of the Criminal Procedure Code regulates the protection of witnesses and victims. Decisions to protect the safety of witnesses and victims shall be made on the basis of the investigator's suggestion or request by witness, victim or attorney at the inquiry and investigation stage, whereas at the court level, it shall be resolved on the basis of the prosecutor's input, the request of the witness, victim, or defense attorney.

112. According to the Law on Witness and Victim Protection, victims and witnesses involved in a case shall be guaranteed with their rights for protection in accordance with the law. The law aims to "establish a legal basis for the protection of the lives and health of witnesses and victims, the provision of information, support and assistance during criminal proceedings."

113. Paragraph 1.2 of Article 14.9 of the Criminal Procedure Code provides that in the event of a suspect harassing or intimidating a victim or witness, it shall be grounds for detaining the accused. It also provides for the participation of an appointed attorney and the right to be represented by other participants in the case.

#### *NHRC and National Preventive Mechanism*

#### **Reply to paragraph 8(a) of the list of issues**

114. The revised Law on the NHRC was approved by the State Great Hural on January 23, 2020. The law provides for the establishment of a mechanism to prevent torture (see paras.8–9).

#### **Reply to paragraph 8(b) of the list of issues**

115. According to the law, the NHRC employs five members in house and one additional member to carry out independent activities to prevent torture. The law provides for a unit responsible for supporting the independent member and explicitly defines/stipulates the scope of the member's responsibilities: they shall have unhindered access to any place which may restrict human rights and freedom in any way, shall conduct assessment, monitoring, and documentation of real time conditions, transfer cases of a criminal nature to designated investigative bodies, and publicize the cases or incidents.

116. The revised Law creates a legal basis for the Commission to be equipped with human resources to operate independently and effectively in accordance with the Paris Principles. As of the third quarter of 2020, five members of the Commission have taken office. The selection of the member in charge of torture prevention has not been completed.

#### **Reply to paragraph 8(c) of the list of issues**

117. (See paras. 114–115) In accordance with Article 12.1.2 of the Law on the NHRC, the Standing Committee on Legal Affairs of the State Great Hural approved the procedure for selecting the member to conduct independent activities to prevent torture. The regulation includes procedures for announcement of the selection process to the public, establishment of relevant working groups, submission of candidature requests, registration of participants, collection of information on participants, meetings for selection, nomination and appointment of members.

118. In accordance with the above regulations, applications for recruitment of members of the NHRC and for the Prevention of Torture was received between April 15 and May 15, 2020. The names were posted on the website [www.parliament.mn](http://www.parliament.mn) on May 26, 2020.

119. The selection interviews and meetings were held on June 10 and 11, 2020 pursuant to Articles 1.9 and 9.2 of the aforementioned regulation. 19 participants were interviewed in the order of submission of their applications. The interviews were conducted open to the public, ensuring full engagement of the public via virtual-only participation, which provided an interactive Q&A session.

120. The law further sets out the responsibilities of the unit to support the independent member in charge of prevention of torture. The unit is set to operate with one manager or commissioner, seven executive officers, and three service staff. According to the law, the Commission must be funded from the state budget, and in a manner to enable the institution

to carry out its activity independently. In order to implement the Law on the NHRC and to enable the effective operation of the National Mechanism for the Prevention of Torture, MNT 339,134,850 (approximately USD 119,011.80) was allocated for the NHRC in the 2021 state budget.

### *Juvenile Justice*

#### **Reply to paragraph 9(a) of the list of issues**

121. Article 48.1 of the Constitution of Mongolia states “Specific courts may be established by types of criminal, civil, and administrative proceedings.”

122. Chapter 18 of the Criminal Procedure Code regulates the procedure for conducting criminal proceedings for crimes committed by juvenile suspects, accused and defendants.

123. Article 18.2 of the Criminal Procedure Code sets out the general requirements for judicial hearings of criminal cases committed by juvenile defendants, such as ensuring that juvenile defendants have their rights and legitimate interests represented during their case proceedings. The judge shall also respect their dignity, take into account their age, and give them the opportunity to correct the mistakes. Whilst conducting the criminal proceedings on camera and promptly informing the public about the decision, the court shall ensure the proceedings in juvenile cases proceed more expeditiously than normal, with special attention being paid to the rights, legitimate interests of and possible consequences to the juvenile defendant.

124. Juvenile defendants shall be tried separately from criminal cases at the investigative stage. Isolation of a juvenile defendant’s case may be avoided if it impedes the full and objective determination of the case from all angles.

125. Trials of juvenile offenders shall be closed to the public and shall include a defense counsel and legal representative. A juvenile accused shall be represented by their legal representative in the presentation of case file in accordance with the law.

126. The legal representative of the juvenile defendant shall be present during the course of the entire court hearing. If, during the court hearing, it is determined that the juvenile defendant may be adversely affected, the presiding judge may, at the request of the parties, remove them from the courtroom.

127. The Law on Children’s Protection, adopted in 2016, provides for the establishment of a Legal Committee on the Rights of Children to operate in each district, providing services to children suspected of crimes or violations, being witnesses or victims of crimes, convicted of crimes, subjected to coercive measures, or convicted of violations. The composition, organization, and operation of the Legal Committee on the Rights of Children was approved by Joint Order A/51 and A/69 of the Minister of Labor and Social Welfare and the Minister of Justice and Home Affairs in 2017.

128. (See para. 17) The Committee ensures the minor has an attorney assigned from the Mongolian Bar Association, other relevant body, or Legal Aid Center if it finds the child is incapable of choosing a lawyer or is insolvent at the receipt of the notification.

129. Order No.114 of the Chairman of the General Council of the Judiciary in 2017 approved the training program on “Reform of Criminal Law.” The program included the content of “Criminalization of Adolescents.” In accordance with the program, training was organized in three shifts in October and November 2017, and a total of 193 judges of first instance and appellate instance courts participated.

130. Special rooms were set up under the requirements of the specifics of centralized resolution (services) of domestic violence and dispute cases in three central districts of Ulaanbaatar city in 2017. The courtrooms and meeting rooms in these courthouses are equipped with specialized family courts and rooms which facilitate the protection of the interests of children according to the international good practices.

131. During the reporting period, a standard interrogation room for child testimony was commissioned in 30 aimags and district police departments at the cost of 166 million MNT from the state budget.

**Reply to paragraph 9(b) of the list of issues**

132. Starting in 2019, the General Council of the Judiciary has been conducting a survey via a non-governmental organization of the need to establish a specialized court for domestic and juvenile cases.

133. Capacity building training for members of the Legal Committee on the Rights of Children was organized per region from December 9 to 18, 2019, with 270 members of the committee being trained. A training manual was developed and distributed to relevant staff members.

**Reply to paragraph 9(c) of the list of issues**

134. Article 18.8 of the Criminal Procedure Code regulates the detention of juveniles. The basic term of detention for juvenile offenders shall be one month, whereas the total period shall be three months for a person convicted of a crime punishable by up to five years in prison under the Criminal Code, and up to six months in the case of more than five years of imprisonment under the Criminal Code.

135. According to Article 14.11, paragraph 2, of the Criminal Procedure Code, female juvenile defendants with breastfeeding children will not be detained or remanded to custody on any grounds other than the following cases: “Attempted to flee from criminal proceedings or escaped; harassed or threatened a judge, prosecutor, investigator, victim, witness, expert or co-perpetrator; committed another crime that endangered their lives or health; there are well-founded facts for the probable cause of committing crime; the previous measure of restraint was violated; and/or absence at court without a valid reason when summoned by the prosecutor’s notification letter.”

136. Detention of juveniles is carried out in accordance with court decisions. Measures of restraint against juvenile offenders are being implemented in 26 rooms of the 461st Closed Detention Unit of the General Authority for Court Order Enforcement and in one cell of each local/provincial detention center.

137. Article 3.1 of the “Internal Rules of Detention Facilities,” approved by Order A/209 of the Minister of Justice and Home Affairs in 2014, stipulates that “Article 32 of the Law on Arrest and Enforcement of Decisions on Arrest and Detention of Suspects shall be assigned to detainees, suspects and defendants,” thereby ensuring juvenile detention facilities are clean, furnished well, and provide additional meals with higher calories. Adolescent guards are supervised by separate juvenile staff.

138. Prosecutors and other human rights organizations regularly monitor the detention of juvenile detainees. To date, there have been no incidents of juvenile detention with adults.

**Reply to paragraph 9(d) of the list of issues**

139. A new 2,500m<sup>2</sup>, 4-story building near the 407th open and closed prison in the 21st khoroo of Bayanzurkh district has been commissioned.

**Article 3. Non-refoulement****Reply to paragraph 10(a) of the list of issues**

140. In addition to the specific regulations on “Mutual legal assistance in criminal matters” under Article 42 of the Criminal Procedure Code, “Acquisition and extradition of sentenced persons for the purpose of enforcing a decree” under Article 43, and “Transfer of sentenced persons to their country of origin and acquisitions of Mongolian citizens” under Article 44, Article 26.1 of the Law on Prosecutors stipulates that “the Central Prosecutor’s Office shall be the central body responsible for organizing criminal proceedings, unless otherwise provided by international treaty.”

141. Legal aid agreements concluded with other countries provide for a minimum sentence of one year for extradition. Article 1.7 of the Criminal Code regulates the transfer of a sentenced person. Article 1.7, paragraph 3, of the Criminal Code states that “Foreign

nationals and stateless persons shall not be extradited to a foreign country for criminal investigation or punishment if there are sufficient grounds to impose death penalty or to subject to torture under the law of that country.”

142. In order to fulfill the obligations under international treaties and conventions on mutual legal assistance in criminal matters and the transfer of offenders, and to meet the requirements set by international standards and norms, the following activities are being carried out: 1) improve cohesion and coordination between the relevant national/domestic organizations; 2) to have an “electronic database” containing official sources of agreements and negotiations related to mutual legal assistance in criminal cases and extradition of criminals, as well as data on requests, their execution and progress, and other pertinent information; 3) Organize specialized training for employees of the relevant organizations.

#### **Reply to paragraph 10(b) of the list of issues**

143. Article 44.1, Paragraph 2, of the Criminal Procedure Code states “Unless otherwise provided by law or in the international treaties to which Mongolia is a party, the General Prosecutor shall make the decision to extradite a convict sentenced by a competent court of Mongolia and notify the judge who made the court order as well as the Court Order Enforcement Agency.”

144. Within the framework of international treaties to which Mongolia is a party, the General Prosecutor’s Office provides mutual legal assistance in criminal matters, extradition of or acquisition of custody over offenders, extradition or acquisition of custody over convicts.

145. Unless otherwise provided for in the international treaty, a request from a foreign country for legal assistance in a criminal case is received and registered by the Prosecutor’s Office, provided that it meets the criteria specified in the international treaties and laws of Mongolia. The request is transferred to a prosecutor who, upon taking into consideration the content and nature of the request, assigns it to the pertinent sub-prosecutor’s office or investigation authority, determines the time frame, and oversees its execution.

146. Article 37.2 of the Law on the Legal Status of Foreign Citizens states “The decision to deport a foreign citizen from Mongolia shall be made by the head of the state central administrative body in charge of foreign citizens based on the conclusions of the state inspector for foreign citizens.” As this decision is made by a civil servant, it shall be subject to the administrative decision specified in the General Administrative Law and shall be subject to the control of the Administrative Cases Court. Courts are not involved in the deportation of foreign nationals.

147. Mongolia is not party to the UN Convention Relating to the Status of Refugees. Therefore, the residence of asylum seekers and refugees, like other foreigners, is regulated by the Law on the Legal Status of Foreign Citizens and the “Mongolian Visa Issuance Procedure” approved by Government Resolution No.145 of 2018.

148. Foreigners who have applied for asylum at the UN High Commissioner for Refugees (UNHCR) must make a request to obtain refugee status at the UNHCR office in Mongolia within one week of entering the country and before the end of stay in the country. Upon submission of the request, a residence permit in Mongolia shall be issued by the Office of Immigration, Naturalization and Foreign Citizens of Mongolia for a period of six months to one year. In case of request for extension of status, the Office extends it for the period requested granted it is within reason. During this period, they enjoy the same rights and responsibilities as foreigners.

149. Foreigners, who have applied for asylum to the UNHRC but have failed to obtain a private residence permit in a timely manner, are subjected to fines under domestic law. Any omission on the side of the UNHCR in Mongolia to submit visa applications of asylum seekers, who enter Mongolia as temporary visitors and seek refuge in third countries, to relevant authorities in a timely manner would also result in fines.

150. No court is involved in the deportation or extradition process, and no court decision is issued in this regard. The extradition and transfer of convicts shall be decided by a court in accordance with the procedure set forth in Article 44 of the Criminal Procedure Code.

According to Article 37.7 of the Law on the Legal Status of Foreign Citizens, deportation of a foreign national does not pertain to the transfer of convicts between countries.

**Reply to paragraph 10(c) of the list of issues**

151. Deportation and extradition of a foreigner involves the concern of whether they are at risk of death penalty or torture abroad. Hence, the registration process is envisioned to be improved as reflected in Article 4.3.9 of the Action Plan of the Government of Mongolia for 2020–2024, which states that “the system of registration, information and control of foreign citizens and stateless persons shall be improved” (see para.146). Deportation from Mongolia number as follows: in 2016, 450 foreigners from 27 countries; in 2017, 367 foreigners and one stateless person from 32 countries; in 2018, 530 foreigners and two stateless persons from 28 countries; in 2019, 1,509 foreigners and one stateless individual from 26 countries.

152. The order on deportation from Mongolia can be appealed in the following way:

(i) According to paragraph 2 of Article 11 of the Law on Resolution of Citizens’ Complaints to Government Organizations and Officials, complaints shall be submitted to the superior body or official to which the organization or official is affiliated;

(ii) Unless otherwise provided by the law as specified in Article 14.1 of the Law on Administrative Cases, if the administrative proceeding was conducted in accordance with the procedure specified in the General Administrative Law, a claim shall be filed with the Administrative Cases Court within 30 days of notification of the decision.

153. After reviewing the complaint, the Administrative Cases Court suspends the execution of the administrative act in accordance with Article 61 of the Law on Trial of Administrative Cases.

154. Except as otherwise provided in Article 62 of the Law on Trial of Administrative Cases, the judge shall suspend the execution of the administrative act at the request of a party to the case, their representative or defense counsel solely on the grounds specified in the law. The order of the judge shall remain in force until the final resolution of the case is rendered.

**Reply to paragraph 10(d) of the list of issues**

155. The Ministry of Foreign Affairs of Mongolia, jointly with the UNHCR, organized a training on “Emergency Planning and Refugee Protection” on December 10, 2019. Presentations were delivered on a wide number of issues including the legal status of refugees, refugee protection, international legal regulations, mass emergencies, measures to be taken thereof, and international good practices by the UNHCR Bureau for Asia and the Pacific, UNHCR in Mongolia, and the Mongolian National Emergency Management Agency. The training was attended by the Secretariat of the National Security Council of Mongolia, the Cabinet Secretariat, the Deputy Prime Minister’s Office, the Ministry of Justice and Home Affairs, the Ministry of Defense, the Ministry of Health, the National Emergency Management Agency, The Office of Immigration, Naturalization and Foreign Citizens, the General Intelligence Agency, General Agency for Border Protection, the General Authority of Armed Forces, National Police Agency (NPA), the Institute for Strategic Studies, and the Mongolian Red Cross.

156. The country does not currently have a mechanism for individual case-by-case assessment of refugee-related issues, including on the obligation not to return refugees.

**Reply to paragraph 10(e) of the list of issues**

157. During the reporting period, the following agreements were concluded: the “Agreement between Mongolia and the Republic of Belarus on the Transfer of Criminals” in 2018, the “Agreement on the Transfer of Criminals between Mongolia and the Socialist Republic of Vietnam” in 2018, the “Agreement on the Transfer of Sentenced Persons between Mongolia and the Socialist Republic of Vietnam” in 2019, and the “Agreement on the Transfer of Convicts between Mongolia and the Republic of Kazakhstan” in 2019.

158. Section 4(d) of the Agreement between Mongolia and the Republic of Belarus on the Transfer of Criminals states that “Taking into account the interests of the requesting party

and the seriousness of the crime, the requested authority may refuse to extradite offender in exceptional cases if it deems it inhuman to transfer the offender due to his or her personal circumstances.”

159. Subparagraph (e) of Article 3.1(1) of the Agreement between Mongolia and the Socialist Republic of Vietnam on the Transfer of Criminals states that “The requested authority shall refuse to transfer the offender if it deems that there are reasonable grounds to believe the requesting party may impose torture or other cruel, inhuman or degrading treatment or punishment.”

160. Article 5 of the Agreement on the Transfer of Convicts between Mongolia and the Socialist Republic of Vietnam states that “The transfer of a convict may be refused if there are grounds to believe that the receiving party may impose torture or cruel and inhuman punishment upon his transfer.”

161. Article 5 of the Agreement between Mongolia and the Republic of Kazakhstan on the Transfer of Convicts states that “If a party ... considers that it does not comply with the basic principles of the national legislation of that country ... the transfer of a convict may be refused.”

#### **Reply to paragraph 10(f) of the list of issues**

162. As of the reporting time, there are no considerations underway pertaining to the status of refugees, per Convention or otherwise. Cases are to be treated on an individual basis as the need arises.

### **Article 5–9**

#### **Reply to paragraph 11 of the list of issues**

163. Article 1.2 of the Criminal Procedure Code sets out the scope of criminal proceedings. In particular, the Criminal Procedure Code applies equally to criminal proceedings against crimes committed on Mongolian ships and aircraft in the Mongolian water and air space, in the territory of Mongolia, and its affiliated diplomatic missions abroad.

164. Pursuant to paragraph 1 of Article 42.1 of the Criminal Procedure Code, courts, prosecutors and investigators shall execute the requests from relevant foreign organizations and officials to conduct investigations in accordance with the general procedures set forth in this Code.

165. If there’s a necessity to interrogate (take testimony), inspect, search, experiment, confiscate property and conduct criminal proceedings specified in this Code in the territory of a foreign country, this shall be done in accordance with the mutual legal assistance and other relevant international agreements.

#### **Reply to paragraph 12 of the list of issues**

166. (See para. 156) Article 2.1 of the Agreement between Mongolia and the Republic of Belarus on the Transfer of Criminals states “A crime to be transferred for the purposes of this Agreement shall be punishable by imprisonment for a term of at least one year or a heavier sentence in accordance with the law of the parties,” which also applies to Article 2.1 of the Agreement between Mongolia and the Socialist Republic of Vietnam on the Transfer of Criminals.

#### **Reply to paragraph 13 of the list of issues**

167. During the reporting period, the “Agreement between Mongolia and the Republic of Belarus on Mutual Legal Assistance in Criminal Matters” was concluded in 2018, “Intergovernmental Agreement on Mutual Legal Assistance in Criminal Matters between Mongolia and the Hong-Kong Government as the Special Administrative Region of the People’s Republic of China” was signed in 2018, and the “Agreement on Mutual Legal Assistance in Criminal Matters between Mongolia and Macao Special Administrative Region of the People’s Republic of China” was signed in 2019.

168. As of date, there is no practice of transferring any evidence of torture or other ill-treatment to other countries on the basis of an international treaty or bilateral agreement.

## **Article 10. Training workshop**

### **Reply to paragraph 14(a) of the list of issues**

169. The Mongolian Bar Association organizes training for lawyers in an integrated manner. Human rights training forms part of the basic vocational training, which is provided every other year.

170. The Association has approved a “Procedure for organizing continuous legal education and credit hours’ calculation” and Article 3.1, paragraph 3, of this procedure stipulates that organizations providing training must be accredited by the Education Committee of the Association and obtain a permit to train lawyers. As a result, the national lawyers’ platform was able to have lawyers of various specializations attend the integrated training course on human rights and the conventions. A training program has been developed to prevent public officials from committing crimes such as “torture” specified in Article 21.12 of the Criminal Code.

171. The NHRC accredited the Lawyers’ Committee for Continuous Education of the Mongolian Bar Association to conduct eight-hour training sessions for lawyers, which included a module on the “Application of the International Covenant on Human Rights in Judicial Practice” in 2016. In a notable example of other efforts, a staff member of the NHRC conducted a session on the “Crimes of Torture” at the invitation of the Orkhon aimag Police Department, with a total of 64 officers as well as prosecutors from the Prosecutor’s Office participating in the event held on July 1, 2020.

172. Law enforcement agencies regularly provide training on the provisions of the Convention, including on prohibition of human trafficking, violence against women, and torture. For instance, 65 officers, including security guards who had been working in urban prisons and organizations for 3–5 years, were trained in the “Free from Torture” program between December 9–20 at the 409th Closed Prison and the University of Internal Affairs, in accordance with the Order No. A/94, dated May 20, 2019, of the Chairman of the Court Order Enforcement Agency “On Approval of the Training Program”.

173. An independent chapter on “Human Rights” is added to the annual training program plan for all prison staff, which, besides sharing information, contains information on how to distinguish and define torture vs. ill-treatment. As of September 2020, a total of 2,255 employees of 51 prisons and organizations were involved in the training.

174. One officer from each police division in the districts of Ulaanbaatar city was recruited as an intern to work at the Unit for Combating Human Trafficking under the Criminal Police Department of the NPA for a period of one month from January–March, 2018. Moreover, a total of 80 local detectives were retrained under the “License for Execution and Qualification Upgrade” seven-hour course organized at the Training and Internship Center of the NPA. They were also trained in another seven-hour course on “Combating Human Trafficking via Execution Tasks.” Within the framework of the “Memorandum of Understanding,” signed between NPA and the NHRC, a “Human Rights Trainer” course was held from October 11–13, 2017 and from April 25–27, 2018, upon completion of which a total of 49 officers from district and rural police units were certified.

175. Discussions on the topics of the Convention as well as many other relevant treaties, to which Mongolia is party, were held during joint seminars convened by the Ulaanbaatar city Prosecutor’s Office and the Court Order Enforcement Agency, and in smaller seminars organized in each of Ulaanbaatar city’s districts. Training was also held on the discussed topics as part of these seminars.

176. During February 20–21, 2020, a re-training course on “Human Rights Trainer” was organized for 35 police officers from central and local police units trained as “Human Rights Trainers”.

177. Graduates of the Human rights trainer course were assigned to work in groups and individually to prepare summaries of the training content, so that they could utilize the concepts for training their designated units. The NHRC continues to work with these institutions in conducting in-house and independent trainings.

178. Five delegates of the Ministry of Justice and Home Affairs of Mongolia took part in the meeting “Strengthening Cooperation between Mongolia and the People’s Republic of China on Human Trafficking,” a project by the International Organization for Migration in Beijing on October 8, 2019; Eight police officers and two professors from the University of the Internal Affairs of Mongolia participated in a joint training course for police officers of the two countries on combating human trafficking, which was held in Beijing on December 11–12, 2019.

179. Law enforcement agencies, courts, and prosecutors plan to conduct in-house preventive training on torture and ill-treatment, annually. There is, however, still a lack of specialized training on the articles and provisions of the Convention. A need to work with the NHRC to develop specific training programs in these areas of the Convention exists.

#### **Reply to paragraph 14(b) of the list of issues**

180. An introductory training on the “Procedure for provision of mental rehabilitation services to victims of human trafficking,” approved by the Order No.462 of the Minister of Health on December 9, 2013, was held between March 14, 2018, and May 30, 2018. A total of 50 doctors and social workers were involved in the event. The Procedure was published in the “Legal Documents to be followed by Psychiatrists” pamphlet, of which 250 copies were published and distributed to local and mental health center doctors.

181. Judges, prosecutors, health workers, and other officials in charge of investigation and documentation of torture and ill-treatment are being enrolled in training courses on the international requirements and norms of the Istanbul Protocol as well as the Code of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The training covers issues such as how to distinguish and classify these actions and conduct specialized medical examinations.

182. According to the training program approved by Order No. A/214 of the Chairman of the Court Order Enforcement Agency dated October 17, 2017, a training workshop on the Istanbul Protocol was convened among the doctors and medical professionals of the clinic at the 401st Closed Prison during October 19–20, 2017.

183. On November 28–29, 2018, a joint training for doctors and medical professionals was organized to study and implement the Istanbul Protocol in order to raise awareness of the role and responsibilities of doctors and medical professionals in prisons and institutions in preventing torture. There is a need to work with the NHRC to improve the training program on the articles and provisions of the Istanbul Protocol, and to improve the understanding and professional knowledge of the officers in charge.

#### **Reply to paragraph 14(c) of the list of issues**

184. There is no specific methodology for assessing the progress of human rights training or for conducting an integrated assessment of the curriculum.

## **Article 11**

#### **Reply to paragraph 15 of the list of issues**

185. Enforcement of arrest and detention decisions are reviewed by the prosecutors’ office at least quarterly on a random basis.

186. Article 25.6 of the Criminal Procedure Code provides for on-site cross-examination of testimony. With the consent of the defendant, or at the investigator’s own initiative, the testimony may be cross-examined on the spot in order to verify the information presented.

187. Upon receipt of a detailed testimony, questions may be imposed. Cross-examination of several testimonies of multiple witnesses at the same time in the same place is prohibited. It is also prohibited to interfere with, guide, or ask warning questions during the on-site cross-examination; the investigation is conducted to substantiate the testimony of the defendant.

188. Article 25.1 of the Criminal Procedure Code stipulates “The investigator shall take testimony in a designated room that meets the requirements for taking testimony. When necessary, it can be taken at the testifier’s place of residence.” There is a need to provide each detective with an audio and video recording device to detect irregularities in testimonies, and to standardize the process regardless of where it occurs.

189. An investigator may summon a person or expert to testify, in accordance with Articles 12.1 and 12.2 of the Criminal Procedure Code, or forcibly bring them, in accordance with Article 12.3 of this Code.

190. Testifiers shall be kept apart for providing testimony and the investigator shall ensure they do not communicate with each other.

191. At the beginning of the testimony, the investigator shall examine the testifier’s personal documents, inform them of the purpose of the testimony, when and by whom they were summoned to testify, and their rights and responsibilities under law.

192. The investigator shall inform individuals of their right not to testify against themselves, their family members, parents, or children, and warn of criminal liability under the Criminal Code if false testimony is deliberately given. Article 25.1, paragraph 12, of the Criminal Procedure Code prohibits the taking of testimony at night, except in cases of urgency or at the request of the individual.

193. A person who testifies may use documents and recordings. The full text or copy of the testimony, drawings, tables, or pictures made by the person may be attached to the notes, and shall be reflected in the notes accordingly.

194. When taking an additional testimony, the investigator may present physical evidence, documents and other evidence to the testifier in connection with his/her previous testimony and show also the notes of the other testimonies, the process of which shall be reflected in the notes accordingly.

195. If a translator or interpreter is involved in taking testimony, they shall be explained their rights and responsibilities, warned in advance of the responsibility for intentional false translation or interpretation, and shall sign the notes.

196. If it is not possible to involve an interpreter in testimony of a person with speech or hearing impairment, the testimony can be taken in written form upon their consent. It is prohibited to guide the process or ask confronting questions.

197. Taking testimony may be recorded by notes, audio or video, or audio-visual recording device. The testifier is to be notified in advance of the recording.

198. Should the testifier wish, he or she can provide testimony in writing and this shall be noted in the report. The requirements for setting up a testimony room is approved by the General Prosecutor (see paras.99–100).

#### *Conditions of Detention Facilities*

#### **Reply to paragraph 16(a) of the list of issues**

199. The Minister of Justice and Home Affairs issued Order A/21, dated January 31, 2020, on building a new detention unit in order to reduce overcrowding of convicts in the capital city detention center. Pursuant to Order A/21, the structure of the facility was approved by Order A/30 of the Chairman of the Court Order Enforcement Agency as of February 5, 2020.

200. Pursuant to Article 13 of the Law on Procedures for Enforcing the Law on the Police, the Acting Minister of Justice issued Order A/162 on September 29, 2014 and transferred some of the human resources, budget and non-current asset of the Denjiin Myanga police detention center formerly run by NPA to the ownership of the Court Order Enforcement

Agency. Accordingly, a new police detention center was established in Dari Ekh center under the Agency. The detention center operates with 28 staff (see para.198).

201. Living space per prisoner in newly opened prisons is increased from 2.5 sq.m to an average of 3–3.5 sq.m with adequate natural lighting and air ventilation following the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused.

202. Suspects on remand held in police detention for 24 to 48 hours under the Law on Infringement are overseen by the Prosecutor’s Office. The situation is reviewed every 14 days, inspected and monitored on a quarterly basis, and in some cases, on a random basis. Whenever a violation is discovered, it is eliminated accordingly.

203. According to Article 2.13 of the “Regulations on Detention Facilities” approved by the Order No. A/185 of the Minister of Justice and Home Affairs in 2017, the General Agency for Specialized Inspection issues an inspection report and recommendations on the living conditions of detention facilities biennially. The regulation also requires the detention centers be connected to a hot and cold water supply along with a sewage system, and have natural lighting and ventilation for the health and safety of detainees. It also stipulates the minimum area of space per detainee to be 2 sq.m under Article 2.4. Overall hygiene and safety conditions in detention centers have been improved.

204. Overcrowding at the armored transfer unit of the 461st Closed Detention has been resolved, and each prison cell has been furnished with a bed with sheets changed weekly.

#### **Reply to paragraph 16(b) of the list of issues**

205. (See para. 91) According to Article 203, paragraph 203.5, of the Law on Enforcement of Court Decisions, the State Central Administrative Body in Charge of Health shall be responsible for providing professional and methodological management, and personnel to the prison hospital.

206. Article 4.2 of the Internal Rules of Prison requires shower set to be installed in prisons, with prisoners being allowed to shower every 14 days, or at any time depending on their working conditions. A barricade was arranged to completely cover inmates’ bodies, with hot water provided, and plumbing connected to the municipal sewage system.

207. In accordance with Recommendation No.1-4/725 of the Ministry of Health dated February 13, 2020, a training video on how to clean, sanitize and disinfect living areas, prisons and hospitals was prepared and distributed to prisons and other relevant bodies for implementation. Regular cleaning, disinfection, and sanitation such as generating disinfectant in the form of air droplets twice a day are routine now.

#### **Reply to paragraph 16(c) of the list of issues**

208. The construction of the Court Order Enforcement Department in Saikhan soum of Selenge aimag, of two stories with 740 sq.m area and 7 detention rooms with a capacity of 29 inmates was commissioned on November 9, 2016.

209. The construction of the Court Order Enforcement Department in Zavkhan aimag, of 1,440-sq.m area with 23 cells with a total capacity of 76 detainees was commissioned on November 10, 2016.

210. The construction of the Court Order Enforcement Department in Bayankhongor aimag, of 1,440 sq.m area with one-stop service center and 13 cells with a total capacity of 66 remand prisoners was commissioned on October 14, 2016.

211. The construction of the Court Order Enforcement Department in Arkhangai aimag, of 1,440 sq.m area with one-stop service center and 18 cells with a total capacity of 58 remand prisoners was commissioned on November 26, 2016.

#### **Reply to paragraph 16(d) of the list of issues**

212. The Court Order Enforcement Agency oversees the security of the service and monitoring of 35 people who have been compelled to undergo involuntary treatment by court

order at the Forensic Psychiatry and Pathology Clinic of the National Center for Mental Health.

213. The Prosecutor's Office conducts regular inspections (weekly or every other week, and once a month on a random /unannounced/ basis) in accordance with the Criminal Procedure Code, the Law on Enforcement of Court Order and "Instructions for Supervision" approved by the General Prosecutor Office at all places where human rights are restricted. In addition, the NHRC is legally entitled to conduct independent inspections.

214. Article 18.1.1 of the Law on the NHRC stipulates the authority of the member of the Commission to conduct an investigation on his/her own initiative or at the request of a citizen, organization, official or legal entity about violation of human rights and freedom. During the reporting period, for instance, the Children's Rights Forum submitted information to the NHRC on violations in the Temporary Shelter and Child Protection Response Services. Inspection was conducted by the NHRC.

215. The appointment of a member of the NHRC in charge of prevention of torture will strengthen the mechanism for independent and regular inspections of all places where human rights are restricted.

#### **Reply to paragraph 16(e) of the list of issues**

216. (See paragraphs 115 and 211 of the report) Prosecutors oversee the special and regular wards of the Psychiatric Clinic of the National Center for Forensic Psychiatry. On average, 62 released convicts are compelled to undergo treatment at the center due to psycho-social disabilities every year.

217. Regular reports are provided in line with the "Procedure for Execution and Supervision of Court Decisions on the Use of Medical Coercive Measures," approved by Joint Order No. A-240/A/369 of the Minister of Justice and Home Affairs and the Minister of Health dated September 21, 2017. As stipulated in Article 190.5 of the "Law on Enforcement of Court Decisions," living conditions, food supply, security, monthly visits from family, and daily escorted outings of detainees are also reported.

#### **Reply to paragraph 16(f) of the list of issues**

218. An additional independent mechanism was established during the reporting period. (See paragraphs 8, 9, 106, and 114 of the report) Article 22 of the Law on Enforcement of Decisions on the Arrest and Detention of Suspects and Accused provides for the right of a detainee to file a complaint. Detainees submit petitions, proposals and complaints to state and local administrations, other organizations and officials through the administration of the detention facility.

219. According to Article 235.6 of the Law on Enforcement of Court Decisions, officials do not control the written contents of, or quantities of letters prisoners send or receive. The prison administration sends outgoing letters within three working days.

220. Petitions, complaints, and appeals to the courts, prosecutors, and other state bodies authorized to supervise activities of detention centers are not reviewed by the prison administration and are sent out to the addressee in a sealed envelope no later than the following day. Complaints and appeals addressed to other government bodies and officials are reviewed by the prison administration and sent out within three days. Complaints related to the activities of investigators and prosecutors shall be sent to the relevant authorities within three days from the date of receipt.

221. Under Article 22.7 of the Law on Enforcement of Decisions on Arrest and Detention of Suspects and Accused Persons, it is prohibited to harass or prosecute a detainee who filed a petition, proposal, or complaint to protect his/her legitimate rights and interests, and its violation shall be punishable by law.

222. The General Prosecutor's Office regularly examines legal grounds for imprisonment, arrest, and detention of suspects, as well as violation of human rights, torture, and elimination of their causes. In 2019, investigators received a total of 35 allegations of torture committed during investigative proceedings and referred them to the Anti-Corruption Agency and the

Investigation Department of the General Police for further proceedings, of which six cases were marked as ill-treatment, two complaints are under further investigation by the prison authorities, two by the Penitentiary Supervision Department of the Ulaanbaatar Prosecutor's Office, and an additional two are under investigation by police. The Attorney General issues official instructions to address such complaints.

223. Day-to-day operations of detention centers and prisons are monitored by the supervising prosecutor and the senior specialist of the NHRC. Article 207.9 of the Law on Enforcement of Court Decisions provides that wounds, scars, and other injuries of prisoners are to be described by their shape, size, and characteristics in the note taken, as well as being recorded with photographic and video equipment.

224. Approved by the Annex to Order A/111 of the Prosecutor General of Mongolia dated December 12, 2018, the detention centers and prisons instituted complaint boxes for grievances of detainees and inmates.

#### **Reply to paragraph 16(g) of the list of issues**

225. According to Article 5.1 of the Criminal Code, the penal policy and the purpose of criminal liability are to rehabilitate perpetrators without imprisonment when possible.

226. Criminal liability, as specified in Article 5.1, paragraph 2, of the Criminal Code consists of punishment and coercive measures that are defined as not inhuman, cruel or degrading to human dignity as stipulated in Article 6.1, paragraph 3.

227. House arrest is legalized under Article 5.5 of the Criminal Code, according to which a person who has committed a crime shall be prohibited from leaving his/her place of residence.

228. According to Articles 1.1, 1.2, 6.7 and Article 7.1, paragraph 1, of the Criminal Code, a convict sentenced with an imprisonment of maximum of 5 years or less and who has voluntarily admitted their guilt and compensated for the damage caused by their crime may be imposed coercive measures with a maximum of 5-year probation and restriction of certain rights.

229. Article 7.1 of the Criminal Code provides for parole without imposition of imprisonment. If a person who has committed a minor crime admits their guilt and compensates for the damage caused by the crime, they may be suspended for up to five years without the imposition of imprisonment.

230. Criminal liability for a juvenile is ruled out to be age appropriate and considerate of physical, health, moral and mental characteristics so that the minor is encouraged to find his or her place in society, guided to education and to be aware of the consequences of their crime under Article 8.1, paragraph 2, of the Criminal Code. It also aims to isolate the minor from the environment and people that pushed them to crime, and to detain the juvenile offender for behavior change when necessary. If the minor is 14–18 years of age at the time of the crime, they may be subject to disciplinary measures provided by the Criminal Code instead of incarceration.

#### *Death Penalty Cases*

#### **Reply to paragraph 17 of the list of issues**

231. On November 27, 2017, the President of Mongolia sent formal letter No. E/15 to the Minister of Justice and Home Affairs, stressing that sexual violence against minors was becoming a pressing issue in the society, and proposed to include death penalty in the Criminal Code. Upon studying the proposal of the President, the Minister established, by his order No. A/299 dated December 13, 2017, a working group to determine the position of the Government of Mongolia. The working group was chaired by the Deputy Minister of Justice and Home Affairs and included scholars and researchers, representatives from the Ministry of Foreign Affairs, the Prosecutor's General Office, the NHRC, and the Mongolian Bar Association.

232. The Working Group concluded that the death penalty could not be reinstated in the Criminal Code as Mongolia had ratified the Supplementary Protocol II to the International Covenant on Civil and Political Rights, which provides for the abolition of the death penalty and that the acceding country has no right to denounce or withdraw from its treaty obligations.

233. In 2018, the Minister of Justice and Home Affairs along with the Minister of Foreign Affairs expressed this position during a meeting with the Ambassadors of the European Union to Mongolia.

234. In connection with the proposal of the President of Mongolia, the UN High Commissioner for Human Rights sent His Excellency an official letter expressing their views. Civil society representatives, scholars and researchers organized discussions and expressed also their views via the media.

235. In connection with the enactment of the Criminal Code and the Law on Enforcement of Court Decisions by the Parliament of Mongolia on July 1, 2017, prisoners sentenced to 30 years of imprisonment were included in the legal equation and have terms reduced to 20 years in a special security closed prison.

236. Of 34 prisoners formerly on death row and whose sentences were commuted to 30 years of imprisonment by pardon, two were released upon completion of their jail sentences, and the remaining 32 were relocated to closed institutions to serve 20 years of imprisonment. In 2018–2019, two prisoners were released early.

237. The sentences of the convicts who were formerly on death row were commuted to 20 years of imprisonment under the same conditions as other prisoners.

238. BB was sentenced to death for the first time by a court decision of September 9, 2015, in accordance with Articles 91.2.11 and 91.2.12 of the 2002 Criminal Code. The Bayanzurkh, Sukhbaatar, and Chingeltei District Criminal Courts of First Instance changed the sentence to a total of 25 years of imprisonment (10 years in prison and 15 years in a special security institution) in accordance with Articles 91.2.11 and 91.2.12 of the Criminal Code.

239. The Ulaanbaatar City Court of Criminal Appeals issued ruling No.239 on April 14, 2016, changing 898 days of detention to 927 days. Songinokhairkhan District Criminal Court of First Instance sentenced him to 20 years of imprisonment under Articles 10.1.2.1 and 10.1.2.5 of the Criminal Code of 2015 by Order No. 191 of July 3, 2017, and then transferred him to Closed Prison No.415 on November 15, 2019. The convict participated in an art class during the period of imprisonment. He is not assigned to labor work and has no outstanding court fines.

240. OE was sentenced to death on March 20, 2015, in accordance with Articles 91.2.2, 91.2.3, 91.2.12, 91.2.13, and 91.2.16 of the Criminal Code. His death penalty was commuted to 25 years imprisonment by Ruling #24 of the Criminal Court of Appeal in Murun soum of Khuvsgul aimag in April 27, 2015. By the amendment of July 4, 2017, the sentence length was commuted to 20 years under Article 10.1.2.1 of the Criminal Code and OE was transferred to Closed Prison No. 435 on April 1, 2019. He works as a carpenter in the artisan's workshop of the prison. He owes 12,876,786 MNT to others.

## **Article 12–13**

### **Reply to paragraph 18 of the list of issues**

241. During the reporting period, investigation into the alleged torture of citizens BS and T.Ch, convicted of the murder of sociopolitical figure S. Zorig, was completed and transferred to court.

242. In addition to the above cases, a total of four cases of torture were resolved during the reporting period, including one case resolved in 2016 and three cases in 2019. The trial was open to the public and court decisions were posted in full on the court's electronic database.

243. As of September 4, 2020, two prisoners convicted of torture under Article 21.12 of the Criminal Code have been serving prison sentences, whereas seven detainees have been

convicted by court of first instances, for which there is no damage or due compensation incurred by the crime.

## **Article 14. Reparation and Compensation for Victims of Ill-Treatment**

### **Reply to paragraph 19 of the list of issues**

244. “Procedure for State Compensation for Victims of Certain Crimes” was approved by Government Resolution No.132 in 2011 pursuant to the Law on Government Special Funds adopted in 2006.

245. Government Resolution No.143 of 2018 amended the above-mentioned procedure and devoted the fund for compensation of family of victims who died or victims who suffered serious injuries as a result of 10 types of crimes specified in the Criminal Code and committed in the territory of Mongolia. The specified crimes are stipulated under Article 10.1 (murder), Article 11.1 (intentional infliction of serious harm to human health), Article 12.1 (rape), Article 13.3 (hostage-taking), Article 13.4 (forcible disappearance), Article 17.2 (Robbery), Article 19.3 (Assassination of a high-ranking government official), Article 21.12 (Torture), Article 29.1 (Planning, preparing, inciting aggressive war), and Article 29.8 (Terrorist act), respectively. The above procedure regulates the issue of compensation for victims of torture, ill-treatment, and inhuman treatment.

246. The Law on Government Special Funds was revised and approved in 2019, where Article 10 specifically provides for new regulations on compensation for victims of crime, including an addition to the 10 types of formerly specified crimes. Under Article 10.3, the family of a person who has died or a victim who has suffered a serious injury as a result of a crime shall be entitled to compensation for damages specified by a valid court decision.

247. In relation to the claims made by exonerated defendants and convicts against the Government for damages caused by unjustified detention, MNT 662.7 million was paid from the State budget to 45 citizens during the 2016–2019 period and MNT 3,9 million was refunded to a citizen in Q1 2020.

248. BS and T.Ch., the victims of torture, were provided with appropriate medical and counseling therapy. They received treatment at the 401st Closed Prison and the General Hospital since March 20, 2019, and psychiatrists, psychologists, and social workers are providing regular checkups and rehabilitation counseling. The victims are now emotionally stable, have no mental issues, nor complaints or suggestions about the operation of the detention center.

249. There are currently no ongoing reparation programs to victims of torture and ill-treatment.

## **Article 15**

### **Reply to paragraph 20 of the list of issues**

250. The Criminal Procedure Code, under Article 16.12, paragraph 1, rules that any testimony which is established to have been obtained through torture shall not be invoked as evidence in any proceedings, and that the confession of the accused or defendant must be proved by other evidence.

251. Article 16.11 of the Criminal Procedure Code sets out the general procedure for dismissing evidence: “The court shall consider the prosecutor’s proposal and participant’s request not to consider the testimony of the suspect, accused, or defendant who testified against themselves as evidence, and shall decide whether the evidence should be considered.”

252. The court can: 1) refuse to accept the prosecutor’s proposal or participant’s request; 2) not consider the evidence in whole or in part; 3) decide not to count some of the evidence collected and corroborated through specific investigation as evidence.

253. The practice of depending on self-incriminating evidence, which was a major weakness in the activity of investigative bodies, has largely been replaced by an evidence-

based case construction model. The old practice of courts transferring cases back to the investigative stage unless a guilty plea was entered has also changed. Moreover, suspects and defendants now testify in the presence of a lawyer of their choice and in a room specially prepared for their testimony pursuant to Article 31.8, Paragraph 1, Clause 1.3, of the Criminal Procedure Code.

254. Special attention has been paid to training officers of investigative bodies. The NPA convened training courses in 2019 on topics such as compensation for victims of torture, reparation and rehabilitation, current status of compensation, and special focus issues.

255. As of current time, there are no official statistics readily available regarding the rejection of statements made as a result of torture, nor the use of such evidence in further cases, which will be accordingly researched as time allows.

256. An important step introduced in the Criminal Code is the inclusion of the principle that collection of self-incriminating statements shall not be considered evidence of guilt alone. In particular, it prohibits courts, prosecutors or investigators to require a suspect, accused or defendant to prove their innocence under Article 1.7, paragraph 4. Therefore, besides training the officers of investigative agencies, the focus is also set on training of the prosecutors. Within this scope, a workshop on “Sharing Experiences of Combating Torture in Some Asian Countries” was organized, where a total of 60 officers and prosecutors from the General Prosecutor’s Office, Ulaanbaatar and District Prosecutors’ Offices, the Criminal Police Department of NPA and the Anti-Corruption Agency were involved.

257. The Training and Research Center under the General Prosecutor’s Office regularly organizes training sessions on demand. The survey taken from the participants of the trainings revealed that the topics of torture and investigation of crimes against human rights and freedom and their manuals and methodologies were most in demand. Therefore, international treaties and other documents on human rights and the crime of torture were compiled into a book and distributed to prosecutors and the relevant organizations.

## **Article 16. Gender Based and Domestic Violence**

### **Reply to paragraph 21(a) of the list of issues**

258. The Criminal Code does not criminalize marital rape, but it is codified as crime under the provision of sexual violence of the Law on Combating Domestic Violence, where all forms of domestic violence are defined.

259. Article 6.1 of the Law on Combating Domestic Violence defines marital rape as “sexual coercion by a spouse that is committed without the other person’s consent.”

260. Article 12.1 of the Criminal Code criminalizes rape as “any unwanted sexual activity or coerced sexual intercourse by taking advantage of one’s power or circumstances.” Paragraph 2.3 of the Article specifies spousal rape as unwanted sexual acts by a spouse against the will of the other person and this crime is punishable by an imprisonment for five to twelve years.

### **Reply to paragraph 21(b) of the list of issues**

261. A new Domestic Violence Division was established by Order A/301 of the Director General of the NPA in 2019. The main purpose of the Division is to ensure the implementation of the Law on Combating Domestic Violence, to prevent this type of crime, and to increase the legal knowledge of citizens. In addition, all police departments have specialists in charge of domestic violence and children.

262. There is a special “107” hot-line for domestic violence calls at the temporary shelter of the Capital City Police. Protection for victims, potential victims, and their children is provided at the temporary Shelter. The center operates 24 hours a day, accommodating victims for 3 to 10 days and providing them with psychological counseling and assistance.

263. Police officers at all levels have the knowledge and capacity to visit scenes of domestic violence as soon as they receive a call, assess the degree of danger, stop the violence, and to protect the safety of the victim.

264. In 2018, a new Unified Domestic Violence Database (eGBV) was created and integrated in the police call and registration system. The integrated system is designed to prevent domestic violence by analyzing the frequency and circumstances of reported domestic disputes and generating risk-profiles for victims.

265. In 2017, 223 cases were registered and investigated under Article 11.7 of the Criminal Code, of which 81 cases were dismissed, 132 were referred to prosecutors with a recommendation to prosecute, and 10 were consolidated.

266. In 2018, 210 new cases were registered, of which 34 cases were dismissed, 165 were referred to prosecutors, and 11 were consolidated. The prosecutors issued indictments in 163 cases and referred them to court, whilst consolidating two.

267. In 2019, 207 new cases were registered, of which 17 cases were dismissed, 32 were consolidated, and 148 were referred to prosecutors for indictment. Of these, prosecutors closed 97 cases, dismissed 6, and consolidated 45.

268. In the first nine months of 2020, the police investigated 253 cases of domestic violence, of which 63 cases were closed, 4 were dismissed, 7 were consolidated, and 179 were prosecuted.

#### **Reply to paragraph 21(c) of the list of issues**

269. The Ministry of Justice and Home Affairs and other government agencies are working within the obligations set forth in the law to prevent domestic violence and protect victims. For example, the One-Stop Service Center for Victims of Domestic and Sexual Violence at the National Forensic Hospital provides medical and psychological assistance to victims by a hot-line#1222. In addition, a new website [www.etuslamj.mn](http://www.etuslamj.mn) was created to provide services and prevent violence.

270. The number of one-stop service centers in Mongolia was 8 in 2016, 10 in 2017, 11 in 2018, 15 in 2019, and 18 in 2020. The number of shelters was 3 in 2016, 6 in 2017, 9 in 2018, 14 in 2019, and 13 in 2020.

271. During the lock-down period imposed due to the Covid-19 pandemic, survivors who received one-stop center services increased by 87%. In response, in accordance with Order No.52 of the Deputy Prime Minister of Mongolia in 2020, the State Emergency Commission allocated 1,000,000,000 MNT (USD 3,544,087.6) to support the operation of 9 temporary shelters and OSSC for survivors of domestic violence in Ulaanbaatar.

#### **Reply to paragraph 21(d) of the list of issues**

272. A Sub-council to combat and prevent domestic violence and crimes against children throughout the country was established by Order A/27 of the Minister of Justice and Home Affairs in 2017. The sub-council consists of the representatives from all line ministries, agencies, and non-governmental organizations. Additionally, local crime prevention sub-councils were established in Bayankhongor, Dornod, Zavkhan aimags at the local level and at Bayanzurkh districts of the capital city.

273. The National Conference on “Inter-sectoral Coordination in Combating Domestic Violence” has been held annually since 2017. A total of 200 people, including the Secretary of the Branch Council, the Head of the Health Department, the Head of the Education and Culture Department, the Family, Child and Youth Development Department, and the police participated in the meeting to discuss law enforcement activities, their results, and solutions to challenges.

274. With the support of the International Development Law Organization, police officers, prosecutors, judges, advocates, social workers and crime prevention officers from the capital city, districts, and 21 aimags were trained to improve capacity skills and coordination in the fight against domestic violence in 2017–2019. Rural/local branches of the Coordination

Council for Crime Prevention each enrolled 1,000 members of their communities to improve their knowledge and skills.

275. Article 20 of the Law on Combating Domestic Violence regulates the activity of “Multidisciplinary teams” /MDTs/. The MDTs provide a wide range of services related to domestic violence, including training of individuals to work in their respective fields in relation to victims of domestic abuse.

276. In 2017 and 2019, joint national training tutoring courses were organized to train family doctors, bag representatives, school social workers, and social workers who are overseen by soum and district governors working in the MDTs. The total number of members of MDTs is increasing in 21 aimags and 9 districts year by year.

277. An Inter-sectoral multi-disciplinary team meeting for exchanging skills and experiences was convened in June 2018 in Ulaanbaatar. Professional and methodological advice was provided to 154 members of the MDTs of Bayan-Ulgii, Bayankhongor, Govisumber, Zavkhan, Selenge, Khovd, Khuvsgul and Khentii aimags.

278. In addition, training on the “Engagement of soum, district governors, and bag leaders in combating domestic violence” was organized throughout the country in June 2018, involving 3,599 soum and khoroo bag leaders and representatives.

279. The Coordination Council for Crime Prevention, in cooperation with UNFPA, organized a total of four regional workshops in 2018 on “Multilateral Cooperation in Combating Domestic Violence” for institutionalizing the implementation of the Law on Combating Domestic Violence at the rural level.

280. The NPA organized 25 training sessions on combating domestic violence for 1,675 police officers in 2018 and 37 sessions for 2,995 police officers in 2019.

281. 49 officers were trained in 2019 as part of the measures taken for improving the capacity of staff at the Court Order Enforcement Agency, studying Essentials of Psychology and Impacts of Human Behavior.

282. The elective course “Combating Domestic Violence” taught at the University of Internal Affairs has become a compulsory subject starting 2019.

#### **Reply to paragraph 21(e) of the list of issues**

283. According to the national statistics, domestic violence accounted for 4.0% of all criminal cases reported in 2017; the number declined to 3.0% in 2018, 2.8% in 2019, and increased to 4.3% in the first nine months of 2020. During 2017–2019, 54.1% of cases of domestic violence were committed in Ulaanbaatar and 45.9% in rural areas.

284. (See para. 263) In 2017, 519 complaints were filed to the police. The prosecutors initiated 65 criminal cases out of 124 inquiries, while the court resolved 155 cases and dismissed 1.

285. In 2018, 210 reports of domestic violence were registered in the country, of which 188 (89.5%) were prosecuted and 140 (67.7%) were initiated for criminal investigation. 105 (50%) of the 210 reported crimes were committed in Ulaanbaatar, which is a decline of 47 (30.9%) from the previous year. In 2019, prosecutors transferred 16 domestic violence cases to courts. In accordance with Article 10.1, paragraph 10.1, of the Special Part of the Criminal Code, the courts of first instance received 29 cases in 2019, returned 3 cases to prosecutors, and transferred 2 cases to relevant jurisdictions. 23 cases were prosecuted and 1 case is pending at the moment. As for the convicts, 8 out of 22 the convicts are sentenced to more than 8 years in prison and 1 person was subjected to medical coercive measures.

286. As of H1 of 2020, 53 convicts are serving sentences under Article 11.7 of the Criminal Code. A total of 52 110-hour training sessions were provided for 53 inmates convicted of domestic violence.

287. Starting from 2019, detailed statistics on age, ethnicity, and relationship of victims of domestic violence is being produced. In 2019, 207 (21.0%) of the total of 985 offenses of domestic violence were codified as domestic violence crimes under Article 11.7 of the

Criminal Code of Mongolia. 207 cases of domestic violence reported in 2019 indicates a decline of 3 (1.4%) from the previous year.

288. The 2019 statistics showed that 186 (89.9%) of the entire 207 crimes of domestic violence were committed in homes and apartments, 10 (4.8%) in the streets or outside, 6 (2.9%) in public places, 1 (0.5%) in government agencies, 1 (0.5%) in non-governmental organizations, and 3 (1.4%) in other places. Domestic violence in home and apartments declined by 3.0% and other places by 1.0%, but domestic violence in streets or outside increased by 2.9% and in public places by 1.0%. Of the total of 207 crimes committed, 112 (54.1%) were committed under the influence of alcohol.

289. The 2019 statistics show that 894 people were victims of 985 crimes of domestic violence, of which 850 (95.1%) were victims of crimes against human health, 33 (3.7%) were victims of crimes against human sexual freedom and inviolability, and 8 (0.9%) were victims of crimes against the right to be alive. 803 (89.8%) of the total of 894 survivors were women and 66 (7.4%) were children.

290. Six out of 10 survivors of domestic violence were physically battered, five out of 10 were the wives of the perpetrators.

291. 42 perpetrators of domestic violence were convicted as of H1 of 2020. The study of the violence revealed that the victims involved one mother, two fathers, 19 wives, 8 cohabitants, 3 biological daughters, 3 step sons, 6 step daughters, 1 sister in law and 2 ex-wives.

### *Combating Human Trafficking*

#### **Reply to paragraph 22(a) of the list of issues**

292. Government approved, by its Resolution No.148 of 2017, the National Program on Combating Human Trafficking. Subsequently, a sub-council was established to coordinate the activities aimed at prevention and control of human trafficking, to provide professional guidance, and oversee the enforcement of the Law on Combating Human Trafficking within the framework of the program.

293. Article 13.13 of the Criminal Code criminalizes forced labor: “Any act of using force, threatening to use force, imposing deliberately damaging terms, or taking advantage of their wealth, health, disability, hardships of family, and other livelihood difficulties for the employment of others without pay shall be punishable by fine of 5,000–27,000 togrog units, or community service for a period of 240–720 hours, or a travel ban for a period of 1–5 years, or imprisonment for a term of 1–5 years.”

294. Article 13.1 of the Criminal Code similarly provides that the use of force, threats, theft, deception, breach of trust, use of force for the purposes of prostitution, other forms of sexual exploitation, violence, slavery, confiscation of organs, or forced labor shall be punishable by imprisonment for a term of 2–8 years.

295. As of the first nine months of 2020, the police had 12 cases involving 15 offenders and 35 victims of human trafficking under Article 13.1 of the Criminal Code, 9 cases with 16 victims and 12 perpetrators of sexual exploitation under Article 12.3, as well as 15 cases involving 17 sex workers and 51 victims of prostitution under Article 12.6 being investigated. In addition, the Witness and Victim Protection Department of the NPA continued to cooperate with the Center for Gender Equality, Talita Asia, and the “Pretty Heart” NGO in placing juvenile victims and survivors of sexual exploitation and trafficking in shelters, and providing legal assistance and reintegration measures accordingly.

296. In November 2017, the Crime Prevention Department of NPA organized a random inspection operation titled “Sauna and Karaoke” to stop illegal activities, during which they detected six places engaged in human trafficking and prostitution. 20 sex workers were detected, identified, and recorded in the database. Of these, three minors were identified as victims of human trafficking.

297. During the reporting period, eight random check operations to detect and stop the engagement of juveniles in prostitution were executed. Preventive information was spread

via media, social media, television broadcasters/channels and radio on a regular basis. A documentary titled “We are not Items for Sale” was filmed in cooperation with private entities.

**Reply to paragraph 22(b) of the list of issues**

298. The campaign “UNFRIEND” for promoting appropriate uses of social media conducted in 2018 was intended to stop cybercrimes against minors, including trafficking, kidnapping, and sexual exploitation of children. This was followed by “#SPREAD THE RIGHT” in 2019.

299. The Ministry of Justice and Home Affairs successfully completed the capacity building project “Improving Victim-Centered Investigations and Prosecutions” among law enforcement officials between 2017–2019. In addition, the Ministry, together with the International Organization for Migration, has been implementing the project “Strengthening Mongolia’s Efforts to Combat and Prevent Human Trafficking” since 2017.

300. The Asia Foundation introduced a comprehensive training program for national anti-trafficking officers and involved more than 700 law enforcement representatives in the training project “Building skills and capacity to improve victim-centered investigations and prosecutions”. Judges, prosecutors, police, border guards, and immigration officers took part in the training. 2,000 students of the University of Internal Affairs were also enrolled in the training and a methodology lab for combating human trafficking was set up at the Police School of the University.

301. During the implementation of the aforementioned project in cooperation with the International Organization for Migration, 128 officers of border protection, immigration, police, courts and prosecutors were trained in 2019 on how to detect, stop, provide assistance to victims of human trafficking and resolve the case. Another 25 police officers were trained on the principles and practices for effective police cooperation in combating cross-border trafficking.

302. Also within the framework of the project, seminar discussions on the joint implementation of measures to prevent human trafficking were convened in 2020, engaging representatives of police, border, intelligence and immigration agencies, officers of the University of Internal Affairs, an NGO delegates. Moreover, 30 persons including police officers and social workers of the Family, Child and Youth Development Department of Dornogovi aimag were enrolled in a joint training for identifying victims and providing services to rescue, protect, and help them as well.

303. The Government began funding the training on human trafficking for law enforcement officers and social workers, and provided other tangible supports, including the provision of teachers and training facilities.

304. Article 13.1 of the Criminal Code provides for 2–8 years of imprisonment for trafficking adults and 5–12 years of imprisonment for trafficking children. Article 12.3 of the Criminal Code provides penalties for human trafficking for the purposes of sexual exploitation.

305. 26 cases, which were dismissed in early 2018 during the process of investigation under Articles 13.1 and 12.3 of the Criminal Code, have been reinstated by the General Prosecutor’s Office establishing a working group to formally investigate these cases.

306. In 2018, 62 perpetrators were investigated for human trafficking and sexual exploitation, with 21 convicted. Of these, 15 defendants were prosecuted under Article 13.1 of the Criminal Code and 6 under Article 12.3. In 2019, the court reviewed and resolved two cases related to 7 traffickers against Article 13.1 of the Criminal Code, imposing sentences and criminal liability respectively.

**Reply to paragraph 22(c) of the list of issues**

307. The Government finances anti-trafficking NGOs from the Crime Prevention Fund administered by the Minister of Justice and Home Affairs. Since 2018, the bidding is openly

announced each year and the selected organization receives a grant of MNT 30 million (US \$ 10,623).

308. In total, four temporary shelters for victims of human trafficking are presently operating within the country. Of these, 1 shelter is run by the Witness and Victim Protection Division of the Police, 2 shelters by the Gender Equality Center NGO, and 1 shelter by the Talita Asia NGO.

309. Since 2018, the Coordination Council for Crime Prevention openly announces bidding for consulting services to protect victims of human trafficking in cooperation with selected organizations and allocates MNT 20 million each year for the temporary accommodation of victims of this crime.

310. 10 cases of human trafficking were reported in 2018, accounting for 8.7% of crimes against the right to be free and the inviolability of person. 7 (70.0%) of the 10 cases were registered in Ulaanbaatar. The victims of the trafficking were primarily between the ages of 14 and 29.

#### **Reply to paragraph 22(d) of the list of issues**

311. According to Article 15 of the Law on Combating Human Trafficking, the victim is entitled to compensation for damage to “property, honor, reputation, or mental health” from the guilty party. To date, there have been no cases of victims being compensated.

312. Article 5.3.17 of the Law on the Government Special Funds provides for a fund to assist Mongolian citizens abroad. The Charter of the Fund was approved by Government Resolution No. 179 of 2018 /Annex 1/. According to Article 2.1 of the Charter, the Fund consists of state budget funds along with grants and donations from foreign countries, international organizations, foreign and domestic business entities, organizations, and individuals. In 2017, repatriation of seven citizens from abroad was financed from the fund, and in 2018, authorities repatriated a total of 20 citizens from abroad, namely two victims of human trafficking from Malaysia, 17 from China, and one from Cambodia.

313. In 2020, the Secretariat of the Coordination Council for Crime Prevention, the Ministry of Foreign Affairs, the Criminal Police Department of NPA, the International Organization for Migration, and the Center for Gender Equality collaborated closely to repatriate seven Mongolian citizens allegedly trafficked to Malaysia and the Kingdom of Thailand. The police have opened an investigation of the case.

#### *Combating Child Corporal Punishment*

#### **Reply to paragraph 23(a) of the list of issues**

314. Specific measures have been taken to establish an effective protection system by criminalizing and controlling domestic violence, as well as prohibiting negligence, abuse, exploitation and all other forms of violence against children since 2017. For instance, a toll-free child helpline-108 call service has been launched and temporary shelters for child protection have been established under the umbrella of the Family, Child and Youth Development Agency. An independent training, research, and information center on family, children, and youth has also been opened by a Government decree.

315. For the monitoring of children’s rights implementations, numerous officers have been trained to specialize in prosecuting crimes related to human rights abuses committed against children, and are licensed to act as State inspectors of children’s rights. Officers received 26 calls in 2017, 299 in 2018, and 72 in 2019. Administrative offense investigations were initiated against 36 citizens, with appropriate fines and penalties imposed.

#### **Reply to paragraph 23(b) of the list of issues**

316. The “Child Protector” project was launched, with the active participation of individual citizens and the general public, with the aim to monitor high-risk areas for children where they may be exposed to crime and violence. The funding was resolved by Order A/116 of the Minister of Labor and Social Welfare in 2019. Collaboration contracts were signed with a total of 194 senior members of communities throughout the country since May 1.

317. In order to increase the role and responsibility of parents in protecting children from violence, and to strengthen inter-sectoral coordination and cooperation, the Government declared 2019–2020 as the “Year of Child Development and Protection” and approved the inter-sectoral plan.

*Violence and Discrimination against Lesbian, Gay, Bi-sexual, Transgender and Intersex Minority*

**Reply to paragraph 24 of the list of issues**

318. The Criminal Code criminalizes, by Article 14.1, discrimination on the grounds of gender identity and sexual orientation.

319. Several events including the official launch of the United Nations Free and Equal Campaign to Protect the Rights of LGBT people in Mongolia, advocating the rights of LGBT people, and organizing training for court and prosecutorial officers are envisioned to be organized within the framework of the OHCHR’s UPR Trust Fund project aimed at facilitating the implementation of the recommendations provided by the UN Human Rights Council.

320. Complaints of LGBT people are often reported to the police as against battery or assault offenses, as LGBT people in Mongolia tend to hide their identity. The offenses are investigated as officially reported.

321. Short-term training for physicians and health professionals include topics on sexual orientation, anti-discrimination and anti-stigmatization.

322. The Minister of Health approved by the Order No.305 of 2017 the procedure for providing counseling and medical care to individuals living with HIV/AIDS, along with their spouses or partners, parents, legal guardians, and custodians.

323. The Order No.305 of the Minister of Health made it possible for HIV-positive pregnancy to be tended in the immediate residential area of the patient, as opposed to only at the National Center of Communicable Diseases previously.

324. Aimag and capital city Health Departments and Public Health Centers will support the continuous operation of non-governmental organizations targeting at-risk populations according to the STI and HIV care regulations.

325. The HIV testing and service center is part of the aimag health department, general hospital, district health center, special hospital, occupational health center, specialized medical center, soum health center, and private and non-governmental health organizations. The management of the health organization shall appoint a consultant and integrate their pay in their budget.

326. A counseling cabinet was set up for people living with HIV, their family, and partners for conducting confidential one on one, couple, or group counseling within the scope of the project “Improving Sexual Health Care for Vulnerable/Target Groups, including female Sex Workers, Men Who Have Sex with Men, and People Living with HIV in Ulaanbaatar,” funded by the Embassy of Canada in Mongolia.

327. Violations involving LGBT people, including prostitution and assault in public places, were reported to the police and investigated and resolved in accordance with the laws.

328. Out of six incidents reported to the police during the reporting period, 3 cases were initiated and 3 were refused.

329. Order A/195 of the Minister of Justice and Home Affairs in 2017 on “The Procedure for Collecting, Checking, Evaluating, Using and Transferring Information for the Database and for Projecting Outcomes and Providing Inquiries” explores the possibility of establishing a database on violations and crimes against LGBT people.

330. The General Police Department plans to update the unified database on investigation of crimes and violations, and to develop a reporting software, issue a directory of databases, and create a standardized database for registration and information of citizens. The list of new databases includes registration of complaints about discrimination against LGBT people,

which is planned to be used for combating discrimination based on gender or sexual orientation.

331. Article 1.3, paragraph 2, of the Criminal Code states that “No person convicted of a crime shall be discriminated on the basis of their nationality, ethnicity, language, race, age, sex, social origin, status, wealth, occupation, position, religion or personal view, sexual orientation, education level, or disability.”

332. Article 10.1 of the Criminal Code criminalizes murder. Article 10.1, paragraph 2.14, of the Criminal Code stipulates that “Murder motivated by the perpetrator’s hatred of or prejudice against difference of opinion, race, ethnicity, religious belief, sexual orientation, or gender orientation shall be punishable by imprisonment for a term of 12–20 years or for life”. Article 12.1 provides for the description of the crime of sexual misconduct, and Article 12.2 further stipulates that “the victim of the crime of rape and sexual misconduct may be a person of any gender whose sexual integrity has been violated” which effectively protects the interests of sexual minorities.

333. According to Article 14.1 of the Criminal Code, an act of discrimination on the basis of ethnicity, language, race, age, sex, social origin, status, wealth, occupation, position, religion, personal view, education, sexual orientation, or health condition shall be punishable by a fine of 450–5,400 togrog units, or 240–720 hours of community service, or a travel ban for a period of one month to one year.

## **Other issues**

### **Reply to paragraph 25 of the list of issues**

334. No specific policy decisions were made during this period.

### **Reply to paragraph 26 of the list of issues**

335. On October 10, 2019, the Law on Proliferation of Weapons of Mass Destruction and Combating Terrorism was approved to improve the legal environment for combating terrorism.

336. According to Article 6 of the Law on Proliferation of Weapons of Mass Destruction and Combating Terrorism, the state shall assess the situation of terrorism and its underlying conditions, and plan political, economic, social, legal and organizational measures to combat terrorism.

337. The regulation on the implementation of targeted financial sanctions was approved by Government Resolution No.54 of January 31, 2019. The resolution was revised by Government Resolution No.464 of 2019.

338. Government Resolution No.460 of 2019 approved rules of procedure and structure of the Counter-Terrorism Council. The Board of the Council is chaired by the head of the General Intelligence Agency. The Council is tasked with discouraging terrorism through non-proliferation of weapons and strengthening of national counter-terrorism capacity in Mongolia, and by improving legal and inter-sectoral coordination through ensuring speedy information exchange.

339. The Counter-Terrorism Council focuses on non-proliferation of arms and prevention of terrorism. The main focus of its preventive activities is to educate the public against terrorism, to assess the situation of terrorism and its underlying conditions, to present it to the Prime Minister and the National Security Council, and to provide agencies involved in countering terrorism with up-to-date information to effectively combat terrorism. A short and medium term strategic plan (2020–2024) for Mongolia to combat terrorism has been developed and approved.

340. During the reporting period, the Counter-Terrorism Council provided regular information and training on counter-terrorism policy to a total of 15,000 (fifteen thousand) citizens and law enforcement officials, including government agencies, the private sector,

and citizens. For example, law enforcement officers were involved in counter-operational exercises such as Khan Shonkhor and Tsagaan Shonkhor.

341. During the reporting period, there were no cases of convictions under any legislation adopted to combat terrorism.

342. During the reporting period, the Cooperation Agreement between the Government of Mongolia and the Government of the Republic of Kazakhstan on Combating Terrorism was signed on June 2, 2019, the Cooperation Agreement between the Government of Mongolia and the Government of the Russian Federation on Combating Terrorism was signed on September 3, 2019, and the Cooperation Agreement between the Government of Mongolia and the Government of the Kyrgyz Republic in Combating Terrorism was signed on October 10, 2019.

343. In 2018, a risk assessment was developed for the first time to combat the financing of terrorism and the proliferation of weapons of mass destruction in Mongolia. A high-level international conference was convened in Ulaanbaatar in cooperation with the United Nations and the Organization for Security and Cooperation in Europe on “Addressing All Societies in Combating Violent Extremism and Radicalism” in 2019, and the Ulaanbaatar Declaration developed from the conference is under implementation.

344. The law provides legal protections and guarantees for those responsible for combating terrorism. Article 22 of the Law on Combating the Proliferation of Weapons of Mass Destruction specifically regulates the social, economic, and legal guarantees of officers participating in counter-terrorism operations. For example, the state shall cover accident and life insurance of officers of the armed forces, border and domestic troops, police, intelligence, and law enforcement agencies assigned to participate in counter-terrorism operations, and shall bear the related expenses.

345. There have been no complaints from citizens or legal entities regarding the violation of international standards in the application of counter-terrorism measures and the rules and regulations governing counter-terrorism.

### **III. Additional information requested from the Commission**

#### **Reply to paragraph 27 of the list of issues**

346. In 2018, the Minister of Justice and Home Affairs approved a plan to implement the observations and recommendations provided by the Committee.

347. Administrative measures were taken to revise and adopt certain rules and regulations in accordance with the aforementioned legislations, such as the Internal Regulations of Detention Facilities for Foreign Nationals, Security Procedure of Prisons, Code of Conduct and Ethics of Court Order Enforcement Officers, Composition of the Council Responsible for Determining Security Levels of Prisons and Newly Convicted Prisoners, Procedures for Monitoring the Implementation of Court Orders Imposing Non-custodial Sentences, Procedures for Creating and Using Databases, Procedures for Changing the Type and Security Level of Prisons and Disciplinary Facilities, Procedures of Solitary Confinement, Internal Regulations of Detention Facilities, General Hospital rules, Specialized Hospital rules, Procedures for Promotion, Demotion and Transfer of Court Order Enforcement Officers, and Procedures for Transferring Detainees to Specialized Hospitals and Aimag General Hospitals.

348. An accelerated assessment of the causes of domestic violence during the Covid-19 pandemic was conducted. Based on the evaluation recommendations, a training module on the “Social and Psychological Counseling Assistance in Protecting Victims and Preventing Domestic Violence during the Covid-19 Pandemic” was published and distributed to the public.

349. Article 7.1.13 of the Law on Preventing and Combating Coronavirus (Covid-19) and Mitigating its Negative Impact on Socio-Economic Development approved in 2020 stipulates that the Government shall provide specialized care and rehabilitation facilities at

incarceration facilities, ensuring that detainees and prisoners are sufficiently protected from infection and cared for in case of contracting the virus.

#### **IV. Conclusion**

350. For the reporting period of 2017 through Q3 of 2020, Mongolia was able to minimize the number of COVID-19 cases in-country, and as such did not encounter significant challenges in this regard towards the implementation of the Convention.

351. Creation of the legal environment for the position of Member for the Prevention of Torture at the National Human Rights Commission of Mongolia has enabled the establishment of an independent mechanism for the prevention of torture in the country. Through continued internal refinement and critical use of inputs such as those garnered from the Concluding Observations of the Committee against Torture, Mongolia plans to continue making tangible improvements to its law enforcement and judicial system.

352. The Government of Mongolia remains fully committed to fulfilling its obligations under the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to ensuring its implementation.

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