



ИРГЭДИЙН АЛЪЯАНС ТӨВ

Coalition of Monitoring and Protection of Human Rights under State of Emergency

Report of Documentation

Ulaanbaatar
2008

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FOREWORD

It is certain today that July 1, 2008 will go down in history of Mongolia as the day that has tested authenticity of the Mongolian democracy and guarantees of human rights. Mongolia was credited for being one of most successful democracy in Asia for the past eighteen years, for guaranteeing very crucial human rights under its Constitution as well as ratifying most international human rights treaties and conventions.

However, the events of this one day clearly demonstrated inability of these numerous documents of national and international legislation to guarantee human rights as fundamental principles of democracy, that there are deep underlying barriers, reasons and factors hindering cultivation of democracy in Mongolia. History will also take down this day as the first ever declaration of a state of emergency triggered by social disorder. At the time of announcing the state of emergency no one had imagined the impact that this decision will entail and the wide range of events that will send shock waves through every cell of the Mongolian society.

This event has tested not only the true quality of the Mongolian state but also the strengths and capacity of its civil society. Have conscience and solid mechanisms for true protection of human rights developed in the past 18 years? Has the civil society mainly concentrated in urban areas developed sufficient capacity?

The history of mankind has abundant evidence that under the state of emergency there is always high likelihood and high occurrence of violation of human rights. Based on this premise over 20¹ human rights-watch organizations formed a coalition to work together on monitoring the process of implementation of the state of emergency. The state of emergency was declared at around 11:30 pm to become effective at 12:00 at the turn of July 1 and July 2, 2008 and stay in force four days.

The Coalition has defined its objectives as follows: Document and prevent, where possible, human rights violations during mass arrests and detention at detention centres; provide legal aid and support to victims; disseminate reliable information to the public and exercise civil society monitoring of the process of administration of the state of emergency.

The fact that monitoring activities are aimed at watching for violation of law by public and law enforcement officials and organizations entails the risk of arousing suspicion and distrust. Given the need to win time this monitoring project was carried out utilizing existing limited resources of the civil society organizations.

This group of civil society organizations has previous experience of documenting the process of forced dispersing of the demonstration of crop growers. While this minor event provided opportunity for monitoring there is no experience in performing a wide range monitoring and documenting human rights violations on an emergency basis. Therefore this monitoring and documentation process has become not only an important lesson for members of the Coalition but also a reminder to be vigilant and prepared for anything.

We take this opportunity to express gratitude to all those who set aside care for personal security, health, job and family safety to devote their hearts, time and resources to carrying out this monitoring at the time when fear and alarm was thrust in minds of the people by the declaration of a state of emergency.

Documentation Team

¹ See enclosed list of coalition member NGOs

**DECLARATION OF STATE OF EMERGENCY
PRESIDENTIAL DECREE**

July 1, 2008, Ulaanbaatar
Number 194

In accordance with authority defined in Provision 33.1.12 of the Constitution of Mongolia and basing on Provisions 5.3 and 5.6 of the Law on State of Emergency , I hereby Decree to declare a state of emergency in the capital city of Ulaanbaatar effective from 24:00 hours on July 1, 2008 to continue for 4 days in order to normalize situation for the population and eliminate consequences of the social unrest, which developed on July 1, 2008 in the Sukhbaatar district territory of the capital city as result of unlawful act of use of force by a group of individuals, which led to social disorder, life threatening attacks on law enforcement officers, setting fire and looting.

Implement the following measures within the frame of the state of emergency:

1. Protect special and essential to human livelihood objects with enforced protection;
2. Use force and measures defined by law to immediately disburse demonstrations, meetings and other public events organized in violation of law.
3. Limit movement and inspect transportation vehicles in the centre of Ulaanbaatar;
4. Utilize force to disburse groups of people who used or are using force to cause social disorder, arrest and seize their transportation vehicles and weapons;
5. Set curfew from 22:00 to 8:00 in the centre of Ulaanbaatar (Baga Toiruu). Police and military guard to arrest individuals in violation of this curfew until the end of curfew time or until establishing identity of those without citizen ID or equivalent document but detain for no more than 72 hours;
6. Prohibit use of audio enhancement equipment, with temporary confiscation where necessary; stop activities of broadcast media, radio and TV except for the MNPRTV (national public radio and TV) until the end of state of emergency;
7. Prohibit sale and distribution of alcoholic beverages;

² www.legalinfo.mn

³ Provision 33.1.12: - to declare a state of emergency or a state of war on the whole or a part of the national territory in the emergency situation described in paragraphs 2 and 3 of Article 25 of this Constitution in circumstances of urgency where the State Great Hural is in recess and to issue ordinances commencing military operations. The State Great Hural shall consider within 7 days the presidential decree declaring a state of emergency or a state of war and shall approve or disapprove it. If the State Great Hural does not make a decision on the matter, the Presidential decree shall be void.

⁴ Law on State of Emergency:

3. If a state of emergency as defined in Provision 2 of Article 25 of the Constitution occurs during recess of the State Great Hural and its development requires immediate declaration of a state of emergency the President of Mongolia shall issue a decree declaring a state of emergency.

6. If the development of an emergency situation requires declaration of a state of emergency such state of emergency shall be declared without taking measures to warn of its declaration.

At 23 hours on July 1, 2008 the President of Mongolia announced declaration of state of emergency transmitted over radio and television⁵. The state of emergency was announced in reaction to the demonstration of public protest in the wake of June 28, 2008 parliamentary election and public violence following these demonstrations. These events, which occurred for the first time in Mongolian's recent 19 years' history came as a shock to the whole society hindering its ability to evaluate realistically the causes and consequences of the situation, the measures taken by the state and thus failing to find a resolution, which is in line with the democratic principles of humane society and is in accord with the interests of the society.

In presenting our report of documenting human rights violations we aim to draw attention of the public to the democratic principles and human rights guaranteed by the Constitution of Mongolia developed and ratified with the goal of developing a humane society as well as international treaties and conventions, which Mongolia joined and ratified as manifestation of its membership of the world community. In doing so we will focus attention on the role of the state in a democratic society as well as base our analysis on principles and standards of both international and national legislation related to announcement and implementation of state of emergency measures. Basing on the fact that the Constitution of Mongolia provides for use of provisions of international treaties and conventions in the case when provisions of national legislation are found in conflict with those in international treaties and conventions our analysis was informed by the international standards. However, in addition to documenting violation of provisions of national legislation by officials during state of emergency we observed the fact that some provisions of national legislation, especially provisions related to arrest and detention procedures are not in compliance with both national and international legal standards.

THE STATE AND VIOLENCE

The fundamental role of the state in any society is to protect its citizens from external and internal threat and ensure the security of the nation. In a democratic society protection of human security is understood as protection of inherent human rights and freedoms. The state therefore is entrusted with the monopoly right to use force (through such institutions as judiciary, police, military) in order to ensure this security. The state is therefore financed by the taxpayer to ensure fulfillment of this role as well as social security, welfare and other services, which came as more recent additions to its role and responsibilities.

However, the abundance of situations where instead of ensuring the security of its citizens the state abuses the monopoly of power to violate their rights and freedoms, especially in societies where the civil society control is weak, democratic institutions are immature and distribution of social wealth and power is uneven. This is evident from the history of not only Mongolia but many nations of the world.

That is precisely the reason why international conventions and constitutions of nations provide legal guarantees for inherent rights and freedoms to protect human life, health, rights and freedoms from arbitrary and irresponsible actions of the state.

That is precisely why international and national legislation include provisions setting high

⁵ While the announcement of the declaration of a state of emergency made at 23 hours on July 1, 2008 was transmitted by broadcast media it is unclear how it reached those participating in the demonstration and parallel riot as well as those who did not have access to TV and radio at the time.

criteria for declaration of the state of emergency, reminding to resolve each situation not resorting to state of emergency and requiring special focus on protection of human rights when a state of emergency is declared.

STATE OF EMERGENCY AND HUMAN RIGHTS

The International Covenant on Social and Political Rights (1966) provisions that in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the state may take measures derogating from their obligations under the present Covenant. The state of emergency shall be declared to the extent strictly required by the exigencies of the situation and shall not involve any form of discrimination.

Measures limiting human rights within the legal framework shall also adhere to the following principles:

- Limitation of human rights and freedoms not to affect legal guarantees of inherent human rights (right to life, freedom from torture, freedom from slavery, etc.);
- To have a lawful purpose of ensuring social good, public safety and security;
- Aimed at preventing greater negative consequences (state of emergency measures to be taken and their consequences to be calculated in detail before its declaration);
- To be of temporary nature (to have a specific timeframe not to be extended without real need).

While the Decree of the President of Mongolia set limitations on several human rights it is regretful that it has failed to remind of the need to respect human rights and freedoms, to prevent excessive use of force. On the other hand, there was opportunity to take measures aimed at preventing damage and destruction at the time when the direction of events became evident to all. Unfortunately the state of emergency was declared at midnight to catch up with the events or as if it had been waiting for the fall of dark.

We knew from experience of other countries that declaration of a state of emergency entails profound negative consequences. International conventions and in compliance with these the national legislation contain provisions regulating this matter. International law documents specify the following principles for the state of emergency:

International Covenant on Social and Political Rights, Article 4⁶:

1. *In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.*
2. *No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.*

⁶ International Covenant on Civil and Political Rights

3. *Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.*

While the Covenant requires a state party to inform the UN of availing itself to the right of derogation and of the provisions it has derogated and the reasons by which it was actuated, Mongolia has not fulfilled this requirement. There is also a following provision aimed at preventing misuse of the right to derogate:

Article 5

1. *Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.*
2. *There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.*

Declaration of a state of emergency opens opportunity for the state to encroach on human rights. This encroachment should be appropriate and limited. International law in particular lists rights vulnerable to violation during a state of emergency:

- Right to life;
- Liberty and security of person;
- Right not to be subjected to arbitrary arrest;
- Right not to be subjected to torture, inhuman and degrading treatment;

The state often is the party violating human rights and thus presents a serious threat. That is why the ICCPR in Article 4, Provision 2 above reminds not to violate inherent rights and freedoms during a state of emergency.

Provision 2 of Article 19 of the Constitution of Mongolia regarding declaration of a state of emergency stipulates that: *“in the case of declaration of a state of emergency or war, human rights and freedoms guaranteed under the Constitution and other laws may be limited solely by law. Such law limiting human rights and freedoms shall not affect legal guarantees of the right to life, freedom of conscience and religion, not to be subjected to torture, inhuman and degrading treatment”*.

Article 3 of the 1995 Law on State of Emergency defines a state of emergency as: *a state of emergency is a state of legal condition which is declared for a specified period of time in the case an emergency situation in the whole territory of Mongolia or parts of it, as defined in Article 25.2 of the Constitution of Mongolia, and is aimed at remedying the emergency situation and its consequences, normalizing social order and living conditions of the population, which sets limitations on rights and freedoms of citizens and legal entities, limitation on activities of public and private entities through additional duties as prescribed by this Law.*

In particular, Article 9, provision 1.1 stipulates that the *National Security Council* “shall have the authority to organize, cause to implement and monitor implementation of the state of emergency based upon the decision of the State Great Hural or the Decree of the President.

In internationally accepted documents the state of emergency is mainly referred to in relation to the priority need to protect human rights. While national legislation of Mongolia, the Law on State of Emergency specifically states that:

“The purpose of this Law is to regulate the relationships arising from declaration of a state of emergency; define justification for declaration of a state of emergency, its rules and special measures, define the authority and duties of the organization responsible for the implementation”. Human rights are addressed in a separate article which, however, does not specify protection of human rights or ways to protect human rights. The fact that the requirement to protect human rights is not mentioned or stipulations preventing abuse of restrictions set by the state of emergency are not mentioned in the law is an example of limitations of this law. In other words, the law and procedures do not specify need to protect human rights other than pro forma copying of the language from international legal documents.

In the future it is important to address protection of human rights and freedoms during a state of emergency through special legislation based on Provision 19.2 of the Constitution of Mongolia. The existing Law on State of Emergency is outdated, open to abuse by the state and omits many mechanisms available for resolving a state of emergency.

ACTIVITIES OF THE COALITION: DOCUMENTATION

In accordance with the Presidential Decree the following state of emergency measures were implemented:

- **Disbursing demonstrators with use of force:** attempts were made to disburse rioters and demonstrators with the assistance of armed internal military force. Due to this there were many citizens who afflicted injuries of varying by combat and training bullets.
- **Arrest:** mass arrests of demonstrators and rioters and any citizens who happened to be in the area started immediately. Mass arrests expanded its boundaries beyond the area specified in the Decree and affected people not engaged in the demonstrations.
- **Closure of all broadcast media other than the National Public Radio and TV:** NPRTV was forced to broadcast censored information, which started the process of transmission of incriminating, accusing and convicting materials through TV.
- **Curfew in specified areas:** use of police force to exercise psychological pressure on the population in areas under curfew.

These measures resulted in considerable amount of fear and confusion among the population.

The coalition was fully formed and begun its activities on July 2, 2008. The first action was a protest statement reacting to closure and censorship set on mass media instruments⁷. This statement was followed by a joint statement of civil society organizations protesting against arrest of over 700 citizens, killed and missing persons⁸.

⁷ See Appendix-2

⁸ See Appendix-3

Beginning July 3, 2008 over 100 volunteers comprising of advocates, lawyers, psychologist, social workers, students and human rights activists began monitoring conditions under which mass arrests of alleged participants in riot was carried out. In the process of monitoring and documenting violation of human rights the Coalition also provided some legal aid, consulting and information dissemination to those arrested and their families.

The process of documenting human rights violations included use of survey questionnaires as well as documenting verbal witness testimonies of arrested and their family members, photographing, video and audio taping as requested by victims and their family members. Documentation process covered:

- Questionnaires to arrested – 71 persons
- Questionnaire to family members – 126 persons
- Audio tape – 8 persons
- Video taped – 9 persons
- Photo documenting – 11 persons
- Medical examination, lab test – 2 person

A considerable number of individuals called in for information and with request for emotional support and legal advice through call in services provided by Citizens' Alliance, National Centre against Violence and the Nisora Fund.

Information and data collected during this documentation exercise reveals violation of many human rights provisions of national law, international treaties and conventions. The documentation process concentrated on collecting evidence of specific type and nature of human rights violation cases rather than the number of direct and indirect victims affected by these violations.

- International treaties and convention provisions violated during implementation of state of emergency in Mongolia during July 1-4, 2008:
- **Universal Declaration of Human Rights** – an internationally accepted fundamental document of human rights, while it is a declaration it has significant power in the process of protection of human rights
- **International Covenant on Civil and Political Rights** – monitoring has revealed gross violation of provisions of this Covenant. The Covenant set protection of inherent human rights and is one of important documents that should have the same effect as national law⁹.
- **UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** – Mongolia has joined this Convention in 2002, which defines torture, inhuman and degrading treatment.
- **UN Convention on the Rights of the Child** – monitoring reveals violation of the rights of many under age individuals (minors), which indicate the need to look at the issues in relation to the rights protected by this Convention. Mongolia ratified this Convention in 1990.

⁹ Mongolia joined this convention in 1968 and ratified in 1974. Since then it has submitted four human rights reports to the Human Rights Council.

- **UN Convention against enforced disappearance** – joined in 2007.
National legislation violated in the process of implementation of state of emergency:
- **Constitution of Mongolia, 1992**
- **Criminal Code, 2002**
- **Criminal Procedure Code, 2002**
- **Law on Procedure for Execution of Arrest and Detention of Suspects and Accused, 1999**
- **“Internal Procedure of Detention Centres”**, approved by Ministerial Order (MOJHA) dated January 28, 2005
- **“Internal Order and Procedure for Administrative Detention Facility”** established by Government Resolution #91 dated April 25, 1996.
- **“Procedure on Use of Special Police Gear and Technique”** approved by Order #76 dated March 31, 1994
- **“Procedure on Use of Fire Arms, Unit Gear, Unarmed Combat Techniques and Dogs by Security and Guard Personnel”** approved by joint Order #15/05 of Prosecutor General and Minister of MOJHA dated September 1, 2003.
- **On Activities of Ensuring of Human Rights in the Process of Inquiry and Investigation** (Joint Order of Chief of Police and President of Federation of Mongolian Advocates dated September 30, 1997).

Above legal acts guide the conclusions of this report and due to in process state of development there may be other legal acts that have been omitted in this list.

COMMON FORMS OF VIOLATION OF HUMAN RIGHTS DURING STATE OF EMERGENCY

Our findings reveal occurrence of many forms of violation of human rights, which we group below for the benefit of readers of this report:

1. The right to life:

As was reported five (5) individuals have lost their lives during the state of emergency. While it has not been yet established whether police or the state violated their right to life, human life was affected during time and in the area taken under internal military and police control. This evidences the fact that the state has failed its duty to protect human life. Live TV reports evidence the fact that no attempt was made to remedy the situation, on the contrary there is evidence that the situation was let to aggravate to the state of risking more lives of citizens and police officers, which is seen as an act for which top echelons public officials should be held accountable.

The documenting team of the HR Coalition has not focused on this issue and since the matter is under criminal investigation carried out by the Investigation Unit under the General Prosecutor there is not enough information for further conclusions. However, since we do have cases of loss of life under state of emergency it is deemed necessary to mention the fact that the right to life was not ensured.

2. No one shall be subjected to arbitrary arrest, detention:

The Presidential Decree authorized utilization of force to disburse groups of people who used or are using force to cause social disorder; arrest and seize transportation and equipment; set curfew from 22:00 to 8:00 in the centre of Ulaanbaatar (Baga Toiruu); arrest and detention individuals in violation of this curfew by police or military guard until the end of curfew time or until establishing identity for those without citizen ID or equivalent but not to detain for more than for 72 hours; Therefore in the process of implementation enforcement should have concentrated on the following:

- **Who?** – groups used or using force to cause social disorder;
- **Where?** - in the centre of Ulaanbaatar (Baga Toiruu);
- **When?** –between 22:00-8:00
- **What grounds?** - lack of citizen ID or equivalent ID to be detained until identification is established but not for more than 72 hours.

Enough evidence is collected on the fact that no measures have been taken to deliver information on declaration of state of emergency to those people, who had no access to radio and TV (at midnight), which led to mass arrest of people who were unaware of the situation. There is also evidence that people have been arrested with valid IDs and in areas of the city not under the curfew. This resulted in violation of:

- Provision 16.18 of the Constitution of Mongolia guaranteeing its citizens “**Right to freedom of movement within the country**”;
- Provision 16.13 of the Constitution of Mongolia “**No person shall be searched, arrested, detained, persecuted or deprived of liberty save in accordance with procedures and grounds determined by law.**”



Majority of the people arrested - 91 percent of respondents - did not know of or have not heard the warning that a state of emergency was declared. 94 percent have not heard of details and warning about the state of emergency measures and requirements.

-questionary

Most of the arrested people claimed that they were arrested while “talking a walk”, “observing the events”, “saw someone similar to spouse in the camera so went out to meet”, etc.-*questionary*

Most of the people were arrested between 23.30 m – 02.00 am around Sports Palace, Central Post, Flower Centre, Grocery Store #4 and Pedagogical University area, 28 of which were arrested from areas far from the riot site or the Sukhbaatar Square.-*questionary*



...mass arrested. People I have talked with all had no knowledge of the state of emergency. Two were arrested in Bayanzurkh District, not far from their work place (6-7 km east of SB square). All were sober at the time of arrest and identification documents were not checked.-*From lawyers’ reports.*

International treaties and conventions:**International Covenant on Civil and Political Rights, Article 9:**

1. *Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

The fact that there were children and underage young people among those arrested evidences violation of the Convention of the Right of the Child, Article 37 (b) *“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”*; In particular, these basic standards of CRC should have been considered in carrying out arrest of children.

Constitution of Mongolia (1992)

- Provision 16.13 of the Constitution of Mongolia *“Right to personal liberty and safety. No person shall be searched, arrested, detained, persecuted or deprived of liberty save in accordance with procedures and grounds determined by law.*

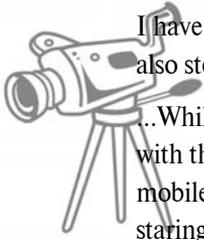
Criminal Procedure Code (2002)

- Article 8. Criminal investigation process shall be lawful
- 8.1 *Inquiry officer, criminal investigator, prosecutor, court shall carry out criminal procedure activities in compliance with the provisions of the Constitution, this Law and other laws.*
 - 8.2 *If a person carrying out criminal procedure activities violates provision 8.1 of this Law, the decision made by the person shall be voided based on legal grounds provided in law and procedures and shall be held accountable for violation.*
- Article 10. Ensuring personal liberty of a person
- 10.1 *No one shall be subjected to arrest as suspect without legal grounds and justification and due process;*
 - 10.2 *...no one shall be detained without a judicial order;*
 - 10.3 *Prosecution shall have the obligation to release persons arrested, detained, convicted or confined in hospitals in violation of law or detained for a period beyond the specified time in law or judicial order.*

The above evidences that mass arrests of citizens were an act of violation Mongolia’s obligations under the international treaties and conventions and the Coalition denounces these acts as profound violation of human rights.

3. Not to be subjected to torture, inhuman and degrading treatment:

Many arrested have complained that in the process of arrest and transportation to the detention site they were subjected to inhuman and degrading treatment:



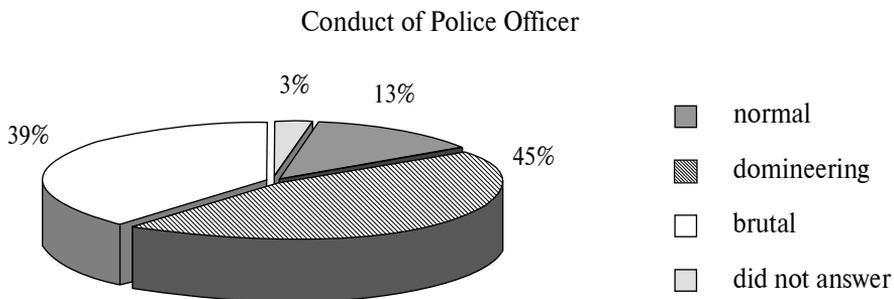
I have been buried under many others. There three layers of people above me. ...they also stepped on and kicked those above me – *Video tape*

...While I was walking policemen called me. When I walked up to them they hit me with their sticks and demanded that I show what's in the pockets. They took away my mobile as soon as I took it out. When I looked up in surprise they yelled: "What you staring at?" Hit me in the face with the stick and threw me in the car.

It was a station-wagon. We were transported in it to 111. They pushed people out of the wagon. They transported us as if we were meat carcasses. People simply fell out of the wagon.

...First four policemen beat us and put in a white car full of people. Some people were sticking out of the window. I was at the very bottom, could not breathe without air. –*Video tape.*

Survey data:



The Universal Declaration of Human Rights, Article 5 states: *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

ICCPR, Article 7 states: *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

Thus it is evident that the inhuman and degrading treatment, use of force exercised by police officials represents many of the forms of torture. Torture is defined as follows in the Amnesty International manual on combating torture:

- Torture
- Cruel treatment or punishment
- Inhuman treatment or punishment
- Degrading treatment or punishment

The ICCPR definition does not provide a more specific definition in order to avoid opportunity to regard as "permitted" other forms of torture not mentioned in the definition.

However the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment specifies the most widely used definition of torture as cited below.

For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Constitution of Mongolia, Provision 16.13 states that “...No one shall be subjected to torture, inhuman, cruel and degrading treatment”.

The Criminal Procedure Code, Article 10:

10.4 *No one shall be subjected to torture and other cruel, inhuman and degrading treatment*

Article 3 of the Law on Implementation of Decision to Arrest and Detain Suspects and Accused:

3.1 *The process of implementation of decisions to arrest and detain shall adhere to principles of rule of law, respect of human rights and freedoms.*

3.2 *It is prohibited to torture or use other methods to inflict physical pain or emotional pressure on person arrested or detained.*

Basic elements of torture include:

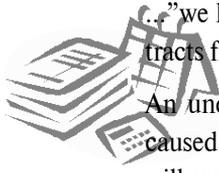
- Torture is not limited to inflicting physical pain once but includes recurrence of distress and pain;
- Torture is deliberate;
- Torture has a specific purpose or is linked to reasons of discrimination of various forms;
- Torture is performed as result of explicit or implicit permission, goading or encouraging by a public official and executing officer;

Persons arrested, detained and/or imprisoned are most vulnerable to torture – Amnesty International

The Human Rights Commission and the Special Rapporteur on torture in their reports include the following in their definition of torture:

- Threat and intimidation: fear inflicted by physical pain entails additional psychological/emotional torture

Over 77 percent of respondents of the survey confirmed “use of force or special equipment by police”. 52.1 percent of surveyed respondents have received physical injury of varying degree. 66 percent admitted that they were under psychological distress inflicted by threat and intimidation.



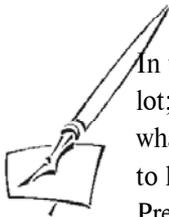
...”we have authority to shoot you...; “you will receive 3 years of imprisonment”- extracts from the report of documenting team working in Chingeltei District Police.

An underage detainee developed a strong degree of emotional distress, which was caused by statements “there is proof of your involvement in criminal offence”, “you will receive 20 years of imprisonment for this offence” used in the process of interrogation. *Extracts from the report of documenting team at the NCIA.*



We can kill all of you. We have the authority. Do you understand this? -they said. People there were very afraid. The only thought was to get out of this place alive. – video tape

While we were being interrogated, one man came up to the inspector and said that all these people will receive 5-10 years of imprisonment – *video tape*



In the process of arrest and upon arrival in the detention centre the police beat us a lot; police beat us in the streets, then upon arrival every single one of them beat us with whatever they had in their hands. We were not allowed to look up. If anyone attempted to look up they yelled: who are you to look policeman straight in the eye? There is a Presidential decree. The President authorized us to shoot you. People who were here called out and were put in cars and taken away in groups of 10-20. They did not come back. We feared that they were shot as threatened by them. Is it true that president decreed to shoot us? I spent 3 days under great fear. Your discussion with me reduced this fear a little. –*from a report of team member monitoring in detention centre*

- According to the Rome Statute of the International Criminal Court 7.1.i, “***forced disappearance of persons***” means the ***arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.***

Documentation teams monitoring outside police stations and detention centers on July 4, 2008 registered numerous requests from family members to assist with finding missing relatives, who disappeared on the night of July 1-2, 2008. Teams have provided support were possible to find missing persons but as of July 8, 2008 there were 72 persons still missing. Continuing work with families of missing persons and investigation reduced the number to 49 persons missing as of July 23, 2008. While there may be persons with incomplete identification information due to inability to contact family members, there are still many persons missing, which do not appear in the lists of names made public by police. The list of missing persons is submitted to the General Police Department as information and action requiring cooperation with Police. As of July 23 the monitoring teams had no information on 49 missing persons.

While there may be situations where a person found or family has not updated the missing status, there are still many who are not listed in the list of detainees issued by police. The list of

missing persons was submitted to the relevant officer of the General Police Department as a matter requiring cooperation with GPD.

In particular, the Procedure and Rules of Administrative Detention Centre state that:

30. *The detention centre shall carry out detention solely in implementation of decision authorizing detention and it shall be prohibited to refer to the Detention Centre administration and its duty officer responsibilities of other organizations and officials related to informing family and lawyer of detained person and issue a written record of where, for what reasons, under what authorization and for what time period a person is being detained.* Thus lack of clear information on where to go for information has affected considerable amount of psychological and emotional pressure on family members. Family members with connections have been able to find their children and relatives but the process was painfully difficult for those who did not know where to go for information especially for those from rural areas and the disabled.

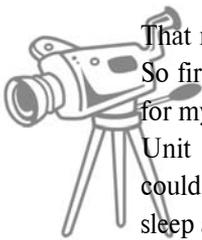
The above facts evidence lack of appropriate organization and management as well as the tendency to disregard the rights of the arrested, tendency to disregard an arrested person as a human. In particular, none of the organizations in this case adhered to the requirement to prevent violation of human rights and freedoms, to reduce emotional pain and bureaucratic red tape for families of arrested persons.

Article 35 of the Criminal Procedure Code stipulates that:

35.4 *Inquiry officer, criminal investigator shall inform the suspect immediately, his/her family member or lawyers within 48 hours of the substance of suspect charges.*

Article 61 of the Criminal Code stipulates that:

61.1 *Inquiry officer, criminal investigator shall inform an adult family member, relative or defense lawyer of the arrest and location of detainee within 24 hours or shall provide opportunity to the arrested individual to deliver such information.*



That night I kept waiting for my child. Police at that Unit 111 are very bureaucratic. So first night I spent sleepless, still waiting. The next day I called all places looking for my child and they all said they don't have him. Then I found a number and called Unit 111 at Denjiin Myanga and they said they do not have anyone by this name. I could not sleep, kept crying in my bed. I begged the police at Unit 111, that I cannot sleep at nights worrying about my child, that if would look and see if he is there, I just need to know where he is. He just said there he may be there. Did not give any specific information. I am very upset. I am sure they do this on purpose. They are using this event to harass family members. – *video tape.*

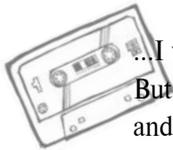
Then I went to criminal investigation department to look through the list of names, which did not have his name. So after three days I had no information. Then went to Denjiin Myanga and again his name was not there. Duty officer stated he would not know if there is one by name ... from so many people. His name was not listed in any of those lists. Then yesterday I went to the investigator, went into his room and asked. And there it was - the investigator had his name. - *video tape*

Then I thought he may be detained at Unit 111 and went there. They promised to release information at 4 pm but did not provide it, then promised again to inform us at 10 pm and there was no information again. This red tape continued for 2-3 days. And only on Saturday I found his name among those detained at Gants Hudag detention.
—*video tape*.

...was arrested on July 1st but we did not have any information until July 5th when we learned about the arrest — *video tape*

...I borrowed a phone to send a SMS and asked to pass on the message to others. Then asked a policeman how I can get in touch with family and let them know, they will be worried if I disappear like this. He said in 48 hours they let us get in touch with family. I didn't know if this was true or not. — *video tape*

...his sister called the next day to learn that he was arrested while walking with friends past a gas station. Yesterday they released all his friends. His friends came out but my son did not come out, was still missing. Then he wrote a SMS, so now I know where he is and sitting here waiting for him. —*video tape*



...I was calling my wife, when police saw this. I explained that I am calling my wife. But they yelled “this thief is taping with phone” and took me out of the crowd, beating and kicking. —*audio tape*

While the above fact of not informing families in some cases may be related to the fact that those arrested did not provide true name and contact information, many family members searching for their relatives were subjected to excessive bureaucratic tape. This evidences the fact that police officers have violated basic principles of human rights and freedoms.

Use of excessive force in the process of enforcing law: in order to ensure respect of dignity of persons arrested use of force beyond the established measure shall be deemed as use of excessive force.

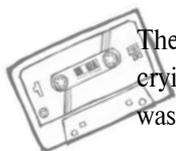
The Procedure on Use of Special Police Equipment and Methods states that:

1. *Police officer shall not use police equipment on minors and pregnant women, in conditions other than conditions threatening human health and life such as armed assault or resistance, social disorder or group assault where opportunity for differentiated treatment is not presented. It is allowed to use police techniques;*
2. *Article 26, Provisions 1, 2, 3 of this Procedure defining conditions for use of police rubber sticks prohibit use of these on the head, areas below waist, bladder and kidneys; prohibit use of electric (stun) sticks on the face and uncovered parts of the body;*
3. *In situations other than that specified in Provision 26.8 of this Procedure, it is prohibited to use individual aerosols, gas sprays, rubber and plastic bullet guns aiming at the face from a distance less than 1 meter;*

In process of documentation we came across numerous complaints and information related torture mostly caused by police retribution in the process of arrest resulting in serious physical

damage and injury, which were documented on audio, video tapes and photographs.

The fact that among the tortured were large numbers of minors and underage persons evidence violation of Article 37 of the Convention on the Rights of the Child stipulating that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;



There were three kids, one 13 year-old died. A 13 year-old boy died. Mother took him, crying. It is said that he was beaten on the head and died of beating. It is said that he was secretly taken out from this Unit 111 – *audio tape*.

Had a big wound on the head. Blood all over. Could not even stand on his feet. – *audio tape*

The documenting team also documented facts of cruel and in human treatment of women, including inhuman and degrading treatment of a pregnant woman.



There were women. One woman was screaming that she is pregnant. She was badly beaten. – *audio tape*

One pregnant woman was beaten close to death. We screamed and yelled to stop them – *audio tape*

Police beat us with the sticks. The two of us were hit several times. “Stand aside puppies! You can’t do anything (against me)! – beating with police stick. They beat one pregnant woman with the stick.



My kid sister was laid in the middle of road and 4 policemen kicked her heartless. We told that we are just going home, done nothing -we cried. They said “shut up you prostitutes. We can do anything, we can kill you. We have the authority” - and hit me twice on the back. *Video tape*

Another element of torture documented is use of intimidation and threat causing physical and emotional distress in arrested persons, creating intolerable state through deprivation of the right to eat, drink, sleep and use bathroom.

Compliance of the detention facility standards with the standards defined in international legislation is an important factor for prevention of human rights violations. Inability to ensure these standards leads to numerous opportunities for torture and inhuman treatment. Detention standards have not been met in the following areas. Registration of arrested and detained omitted the following information:

- a. Name
- b. Justification for arrest
- c. Date of arrest
- d. Name and title of officials arresting and admitting to detention facility.

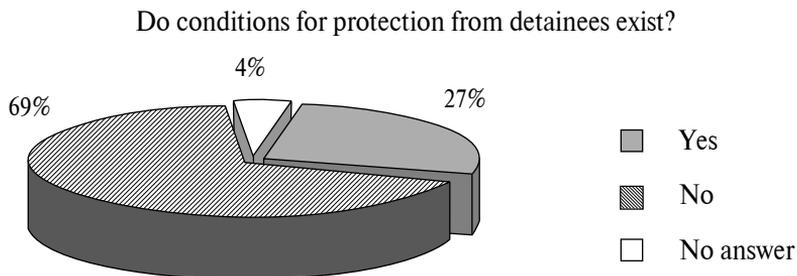
Efficient registration of arrested persons in accordance with the requirements is an important process which should not be omitted or delayed. The process of ensuring human rights and freedoms in sorting detainees, informing family and legal representatives is dependent upon the quality and efficiency of the registration process.

Categorization of detainees:

- e. Where possible provide separate detention facilities for women and men;
- f. Where such separate detention facility is not available, ensure separate cells for women and men;
- g. Detain underage persons (minors) separately from adults;
- h. Detain persons in pre-trial detention separately from those serving sentence;
- i. Sort by age and offence type, previous criminal record in sorting for detention.

Such categorization sorting for detention protects detainees from causing physical and emotional distress to each other and is an important step in ensuring and protecting human rights and freedoms.

Survey data:



Sufficiency of food supply:

- j. The demand for drinking water shall be met;
- k. Food shall meet the calorie intake and health safety requirements;

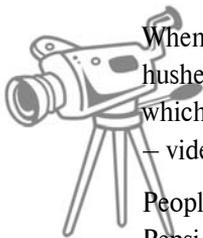
Deprivation of food represents violation of inherent human rights and freedoms and causes deep physical and emotional distress.



Nothing but one bucket of tap water. ...they gave bread and tea when some MPs visited. Audio tape.

...did not eat anything for three days. –audio tape

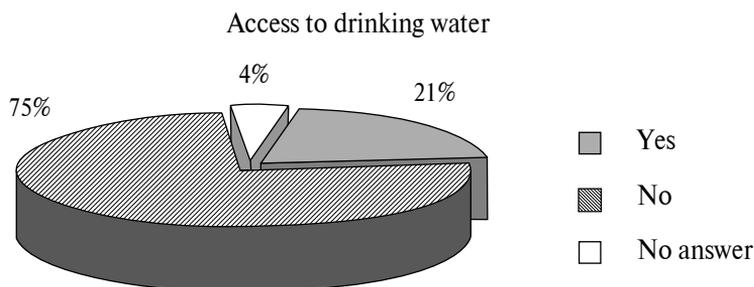
One meal in 48 hours. This consisted of one fried dough and three cups of tea. Audio tape



When we asked for water, they told us that they will bring water if we be quiet. We hushed down but they still did not bring water. Then they brought 2-3 bottles of water, which was not enough for over 100 people, getting drinking water was a big problem – video tape

People were thirsty but there was no water. Overseer gave some tap water in a small Pepsi bottle, which some people shared. I was thirsty but did not get water because there were too many people. Video tape

Survey data:



Conditions of detention facility

- l. Access to lighting and fresh air shall meet the required standards of not affecting human health
- m. It is prohibited to limit inherent right and freedoms, specifically to limit opportunity to use bathroom facilities;
- n. In cases of detention in common cells access to beds and adequate per person space shall be met;

Detention of too many arrested persons in one facility, poor lighting and access to air, too hot or cold environment are forms of violation of security and safety of detainees. In particular detention of persons whose guilt has not been established by court with those serving sentence is deemed a serious violation of personal security.

International practice confirms that poor conditions of detention facility serve as a form of use of threat and torture.



We sat in groups of 50, 60 people in one place. ...outhouse outside the building. Policemen lined up all the way to the outhouse. Policemen beat you all the way to the outhouse and back to the place of seating. I did not drink the tea in the morning fearing the need to go and being beaten. Audio tape



They kept us outside under the sun and rain and then sent back to the garage. The garage had lots of machinery in it. People were kept in big numbers in one facility. Because there were over 100 of us there was no air. Although they opened the three very small windows at the ceiling it was not easy to breathe. I was close to suffocating. Video tape

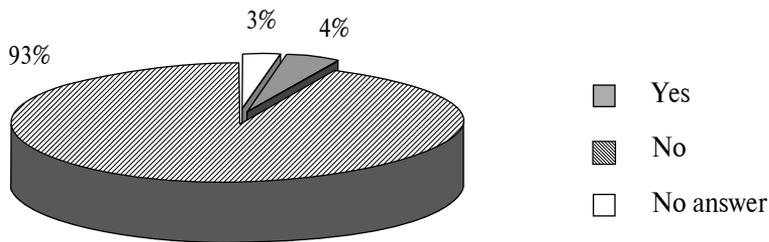
First day spent the night outside. We were kept all day outside in the hot sun. No water. Some people fainted, some had fits. I fainted the first day. Video tape

Those wanting to go to the outhouse were divided into two groups and were given 3 seconds to pee. Those who failed to finish in this prescribed time were dragged out and beaten. Meal came only once a day. Almost no water. We collected rain water to drink. Video tape

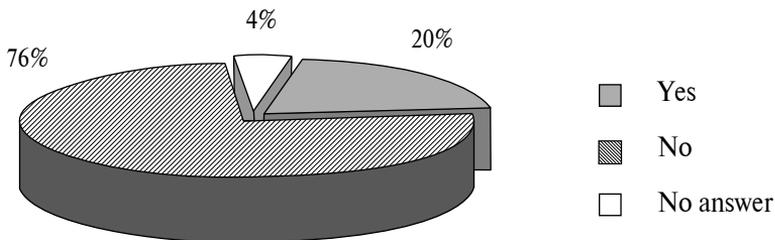
There were many of us in one room. We fit in it only in standing position. When some people sat then there was no space enough for all. There was no air at all. Two small windows were open. People were thirsty of heat. We asked to keep the door open but police refused. Video tape

Survey data:

Access to and sufficiency of air



Access, adequacy of lighting and air temperature



The requirement to ensure certain standards were violated by poor supply of drinking water, provision of low calorie food below required sanitary standards as well as forced inability to intake food due to fear and distress.

Many children and youths were arrested and received the same amount and quality of beating as adult men. We have documented a case of a 16 year-old disabled boy who's received head injury, which is certified by medical examination as well as video taped evidence.

Along with this there were many children who became victims of mass arrests and due to inability of parents and guardians have not received legal or medical aid.

4. Reading the rights of arrested persons and right to a lawyer

Provision 10.5 of the Criminal Procedure Code:

10.5 At the time of arrest the suspect shall be informed of justification of the arrest, of the right to a lawyer, self-defense, file a complaint to court and the right not to disclose self-incriminating evidence.

The survey of witnesses and victims of mass arrests evidences that 88 percent have not been informed of their rights.



When interrogating you, have they reminded you of any of rights and responsibilities?

...No. Nothing at all, not even their name. None of the policemen arresting or the officer interrogating said nothing about it. At the time of interrogation they gave a form to complete where it had the name of the officer interrogating – that is how I found out his name. Video tape

Article 18:

18.1 *Suspect, accused, defendant, victim shall have the right to self-defense, defense by lawyer, other forms of legal aid.*

18.2 *In the case specified under Article 40 of this Law, it shall be the duty of inquiry officer, investigator, prosecutor, court to provide opportunity for suspect, accused, defendant, victim to have a defense lawyer.*

Article 40

40.1 *A lawyer shall be present in the process of filing criminal offence, interrogation, court hearing of the suspect, accused, defendant as listed below:*

40.1.2 *Underage persons;*

40.2 *In the case specified in Article 40.1 the suspect, accused, defendant or his/her legal representative, family member, relative have not selected a lawyer as per his/her will or consent, inquiry officer, criminal inspector, prosecutor, court shall be responsible for ensuring participation of a lawyer into the case.*



...there was no lawyer at the interrogation. –video tape



Underage youths were interrogated during night time without presence of lawyers, parents or legal guardians – from report of a lawyer

Article 37:

37.1 *A legal representative of underage suspect, accused or under trial shall be included in the investigation process*

Article 35:

35.2 *A suspect shall have the following rights:*

35.2.1. *the right to know of the substance of the suspect charges;*

35.2.2. *to see the resolution on filing criminal offence case, to arrest, detain and take other restraining measures;*

35.2.3 *to provide documents, request permission to examine evidence documents.*



Every time we showed the Tenghis Cinema tickets as evidence they'd say "that has no relevance" and beat us again. -video tape

35.2.4 *The right to give testimony or refuse to give testimony;*

35.2.5 *The right to give testimony in mother tongue or language he/she knows; right to take a translator, interpreter;*

35.2.6 *The right to reject and request exclusion of inquiry officer, investigator, prosecutor, translator or expert;*

35.2.7 *The right to self-defense, right to employ services of a lawyer as prescribed in Article 39 of this Law;*

35.2.8 *The right to a private meeting with the lawyer;*

35.2.9 *The right to participate in the process of investigation with the permission of inquiry officer, inves*

35.2.10 *The right to complain about the performance, decisions of inquiry officer, investigator, prosecutor;*

35.2.11 *The right to receive compensation for damages caused by unlawful acts of inquiry officer, investigator, prosecutor.*

35.3 *Suspect shall not testify against his/herself, shall not carry responsibility to provide proof of innocence and evidence on the case.*

Article 59:

59.1 *Inquiry officer, investigator shall prepare a resolution of arrest and deliver to prosecution. Prosecution shall present it to court for approval.*

59.2 *The resolution shall contain substantiation, justification, place, time (with hour and minutes), result of personal search and the time of preparation of the protocol.*

59.3 *The suspect shall be acquainted with resolution and explain the rights stipulated in Article 35, including the right to give testimony in presence of a lawyer and shall include this in the protocol.*

59.4 *The protocol shall be signed by the author and the person arrested.*

59.5 *In case of urgency inquiry officer, investigator shall arrest the suspect and deliver arrest warrant to prosecution and court within 24 hours of such arrest.*

59.6 *The court, within 48 hours upon receipt of the warrant, shall issue a permit to continue detention or order release of the arrested.*

59.7 *Time under arrest will be included in the count of time in detention.*

59.8 *Count of time under arrest shall start from the moment the arrest warrant is presented to the suspect.*

Article 60:

60.1 *The Judge shall issue an order to release a suspect in below specified cases:*

60.1.1 *Lack of sufficient evidence of committing crime;*

60.1.2 *Lack of justification for detaining ... the arrested individual;*

60.2 *Upon expiration of 72 hours, if court decision to detain the arrested is not delivered, the inquiry officer, investigator, prosecutor shall inform the judge and detention facility director shall release the detainee.*

Article 81:

81.1 *A suspect shall have the to testify on the substance of suspect charges and justification for detention and the case for which he/she are considered suspect;*

81.2 *It is prohibited to demand, treat in inhuman and degrading manner to force a suspect to testify.*

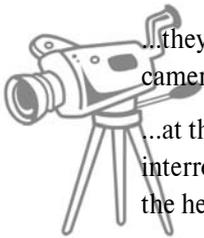
Article 92:

92.1 *Inquiry officer in the process of criminal investigation shall gather proof of evidence through interrogation, face to face interrogation, identification, confiscation, and search and testing, examination and analysis and other methods of criminal investigation specified in this Law.*

92.4 *In the process of gathering proof of evidence it is prohibited to use unlawful methods such as threat, deceit, force testimony or comment through unlawful, life threatening, cruel, inhuman and degrading methods.*



Youths sitting with me were fairly afraid of interrogation. When I asked why, they said there will be beating. They beat less those older. But those of 14-20 years of age were brutally beaten. – audio tape



...they forced on me yelling – “You were there, we saw that you were there in the camera”.

...at the arrival at Denjiin Myanga they beat us outside at night. Next day they started interrogation. They interrogated us outside seated on the ground with hands behind the head. -video tape

When they interrogated, I told them I do not hear well. They said it was not relevant. When I tried to present Tenghis Cinema ticket they again said it was not relevant and beat me. In grade 5, I had surgery on both ears. Both ears do not hear well. I have pain in my ears now. At the time of interrogation when they beat me I fainted. –video tape

...They spit in one boys face. They called one boy to sit closer, kept demanding. When he moved closer they kicked him in the balls. When he moved away they made him move closer again and again kicked him in the same place. Women taking finger prints also called us thieves and bit on the hands. Photographers also yelled at us for sitting on the ground, demanded that we sit squatting with hands on the back of the neck. –video tape

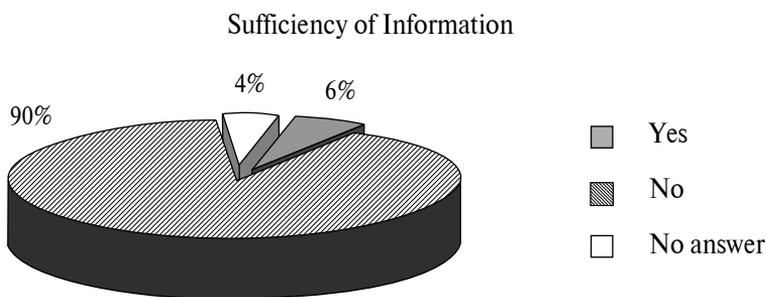
66 percent of respondents covered by our survey were forced to admit offence or provide proof of innocence; 62 percent responded that they were treated in cruel and brutal manner.

Article 144:

144.1 *At the beginning of interrogation identification of the person interrogated shall be taken.*

144.2 *Person summoned for interrogation shall be informed in advance of the purpose of interrogation, inform and document process of informing of rights and responsibilities.*

Survey data:



It is concluded that the above violations also violate the many reiterations of provision included in the Ministerial orders of MOJHA and GPD procedures for arrest and temporary detention and arrest and temporary detention for administrative cases approved following the Criminal Procedure Code.

5. Economic rights

Another human right that was violated in the process of mass arrests is the right of citizens to possess property obtained through just means. There are numerous cases of taking away possessions, including mobile phones and money without registration of their confiscation.

The procedure for detention for administrative cases states that:

3.16 *At the time of first admission to detention and every time a detainee is released from detention the arrested person shall be searched, objects not permitted for entry shall be confiscated and documented in a protocol and a copy of the protocol issued to the officer delivering arrested person.*

31. The detention centre shall have files containing following documents:

- a) Report of duty officer;*
- b) Registration of admission of arrested individual;*
- c) Registration of items confiscated from arrested individual;*
- d) Registration of complaints and petitions filed by arrested individual;*
- e) Registration of persons entering detention centre;*
- f) Registration of temporary release of detainees;*
- g) Registration of medical examination and hospitalization of detainees.*

Most people who lost money and possessions have not filed complaint due to fear and psychological distress as well as lack of knowledge of the above provisions thus letting officials performing illegal acts go free of accountability.

There is a Resolution of the Supreme Court of Mongolia, which interprets some law provisions

on compensation for damages caused by unlawful performance of inquiry officer, investigator, prosecutor, judge. It states that:

In addition to unlawful act as specified in Provision 388.1 of the Criminal Procedure Code it shall mean cases of loss of life, damage to health, emotional, psychological distress resulting from torture and inhuman treatment and cites the convention against torture and other forms of cruel, inhuman and degrading treatment.

The same interpretation includes provision on the state as subject responsible for damages caused by unlawful act of an official. However, the process of documentation revealed that most arrested and detained, including those whose rights were violated are afraid to even inform us about these cases let alone filing complaints.

Conclusion

Thus we have carried out a process of monitoring and documenting violation of human rights in the process of implementation of the state of emergency declared for the first time in Mongolia. We have defined the boundaries of our activity narrowly focusing it on documenting violation of human rights associated with the declaration of State of Emergency and its implementation, reminding public officials to prevent violation of human rights and establishing monitoring that is free of any political influence.

We would like to list some of the challenges faced in carrying our activities:

- Suspicions of political nature;
- Lack of methodological experience of documenting;
- Refusal to participate in the documenting process due to fear and distress;
- Insufficient number of volunteer human rights lawyers available for legal aid;
- Insufficiency in financial and other resources of civil society organizations.

In addition, there is criticism on part of those negating our work based on suspicion of being biased in protecting only the rights of detainees and not protecting the rights of injured policemen. Explanation to this is in the fact that we are defining violation of human rights as violation of these rights by the state.

Based on the observations the Coalition concludes that the state and entities acting on behalf of the state, especially police who pledge to protect human rights and freedoms, have applied excessive force and exercised arbitrary violation of human rights. While it is right to punish for causing damage to the property of many citizens it is unfortunate that many innocent citizens were affected in the process through mass arbitrary arrests violating the human rights and freedoms, became victims of cruel and inhuman treatment, which was document here. We conclude that it is now in the interests of not only civil society organizations, volunteers and activists but the society as whole to fight for putting a stop to abuse of power by public officials and violation of law and other legislation aimed at guaranteeing human rights and freedoms.

In addition, the fact that underage and disabled persons have become victims of this process has been documented in this process. The fact of disability of persons not only served as grounds for subjecting them to greater physical torture but also for forcing them to give testimony without the presence of a lawyer, legal representative, sign language interpreter is a grave violation of law.

Since occurrence of such unlawful acts in the process of criminal investigation have been proven by evidence it is in the interests of those in detention to make public the true state of the situation in order to affect positive impact on their case. It is a matter of great concern that most financially capable citizens were released on bail while those unable to receive legal aid continue to be detained.

The Human Rights Monitoring Coalition has sent an official letter to the relevant officials of MOJHA to consider provision of legal aid to poor citizens within the framework of the national programme of free legal aid to marginalized and vulnerable citizen groups. Since MOJHA has not replied to the letter of the Coalition and continued application of citizens for legal aid to the Coalition provision of legal aid to over 60 poor citizens has been initiated and this matter is considered a priority for future activity.

While the Coalition was established on an urgent basis it has been able to carry out some advocacy action. In particular:

- Briefing provided on July 7, 2008 to the session of the Human Rights Sub-committee of the SGH was instrumental in establishing state oversight over human rights issues.
- It is considered that the press statement made by the Coalition on July 8, 2008 has served as reminder to the police and court decision enforcement organizations not to violate human rights in future operations.

The Coalition takes this opportunity to express gratitude to the detainees and their families for overcoming fear and risking themselves to provide the information and reiterates that we will adhere to our ethical responsibility not to disclose to public their names and addresses without their permission.

As continuation of the work of this Coalition the Globe International, with financial support of the Open Society Forum, carried out monitoring of violation of freedom of press as well as monitoring of mass media coverage of violations of human rights during state of emergency in the period July 1-9, 2008. Law - Human Rights Centre continues to provide legal aid to detainees arrested on July 1.

We express gratitude to all those who worked with us during this vulnerable period of violation of human rights. We hope that human rights lawyers, researchers and activists will unite amongst themselves to work together with the state to prevent new mistakes, to remedy the impact of these mistakes. The Coalition considers this activity as an act of its social responsibility and thanks the civil society for coming together to protect the citizens and the society for responsible and accountable state.

Finally, human rights have universal and individual characteristics and therefore it is appropriate to mention that violation of the rights of one is equal to of the rights of 10, 100 and 1000 individuals. The efforts of this Coalition and other civil society organizations, the way this terrifying event is viewed and handled by the state and society will set the standard for the future and it is therefore essential to remedy the situation basing on democratic principles and rule of law. We conclude that it is important to set goals for the future to improve the accountability of public officials, public institutions and the state, which are responsible for documenting violation of human rights and freedoms, protecting against repeat violation of these rights, compensating victims of human rights violation and holding accountable those responsible for violation.

APPENDIX 1

COALITION MEMBERS

Amnesty International Mongolia

Association for Family Wellbeing

Asian Focal Point for the International Civil
Society Forum for Democracy

Center for Citizens' Alliance

Center for Human Rights and Development

Citizen D.Lamjav

Globe International

Law and Human Rights Center

“Let's Develop” Club

Mongolian Women's Federation

Mongolian Men's Association

“Mongolian Family” Psychotherapy
Association

Mongolian Women's Fund

National Center against Violence

National Federation of Disabled Citizens'
Unions

Open Society Forum

Philanthropy for Development Center

Step by Step NGO

APPENDIX 2

HUMAN RIGHTS NGOS' STATEMENT

July 2, 2008

To: Mr. Naranbaatar, General Director, Mongolian National Public Radio and Television

Mr. Munkhbaatar, Director, Mongolian National Public Television

Mr. Purevdash, Director, Mongolian National Public Radio

At this time when all radio and television channels except for the Mongolian National Public Radio and Television have been temporarily shut down in connection to the declaration of the State of Emergency, it is ever more important that the MNRTV dutifully carry out its responsibility to serve the people's interests.

During this critical time when the anger and frustration of people accumulated as a result of over 10 years of injustice, corruption and electoral fraud have peaked to the point of violent outbursts, further provoked by the illegal proceedings of the most recent national election, the MN-TRTV should:

- operate with full understanding of its role as an organization "whose sole duty is to serve the interests of the public, which is accountable to the public and conducts its activities under the public oversight"
- strictly follow its basic principles of operation and "be independent, respect citizens' right to obtain information, respect plurality of opinion and transparency, and put common national interests above those of economic entities, organizations, officials, individuals and political parties"
- and conduct its operations according to Article 9.1 of the Law on National Public Radio and Television, which states that "the programming of the public radio and television must contain truthful and objective information, be professionally developed, not be one-sided, strictly abide by the journalists' code of ethics and be timely."

That the MNRTV operates strictly according to these principles and legal provisions is of crucial importance for restoring peace, preventing further violations of human rights, and resolving the conflicts through peaceful means while maintaining national unity.

We are deeply worried that in the last few days, MNTV programming has been markedly one-sided and biased in favour of the power-holders. We hope the MNTV shall correct this mistake immediately for the benefit of the people of Mongolia and perform its public duty with honour, according to the law and constitutional principles.

Center for Citizens' Alliance

Center for Human Rights and Development

National Center against Violence

Center for Human Rights and Law

Mongolian Women's Fund

"Tsekh" Constitutional Watchdog NGO

Asian Focal Point for International Civil

Society Forum for Democracy

APPENDIX 3**HUMAN RIGHTS UNDER STATE OF EMERGENCY MONITORING AND PROTECTION
COALITION STATEMENT**

July 6, 2008
Mongolia

Ulaanbaatar,

The history of humankind has demonstrated time and time again that the likelihood of serious human rights violations is increased during a state of emergency. In light of this, over 20 human rights NGOs formed a coalition and pulled their resources to monitor human rights violations, prevent further violence and inform the public during the 4 day state of emergency that was announced on the night of July 1, 2008 following the election protests that took place in Ulaanbaatar, Mongolia.

Over 100 people including lawyers, defense attorneys, psychologists, social workers, students and other human rights activists came together on a voluntary basis and conducted monitoring and fact-finding activities on the situation of the 718 detainees arrested during the state of emergency. At the same time, coalition members have also begun to provide legal counseling, relevant information and other services to the detainees and their families.

Within the framework of this monitoring, the coalition members visited the detention sites and hospitals, and met with relevant authorities, the arrested, the injured and their family members. Information collected through interviews, supported by audio and visual documentation, demonstrates that the following violations of human rights and international conventions, to which Mongolia is a signatory, were committed in the process of the organization and implementation of the President's Decree on Announcing the State of Emergency:

- Complete and timely measures were not taken to inform citizens who were unable to receive information through radio and television about the announcement of the state of emergency
- The police and army corps were not provided with guidelines on how to perform the arrests in compliance with relevant laws and regulations
- In violation of the law, the police and army corps performed a mass arrest, using excessive force, severely beating and injuring people
- The detainees were kept in conditions that do not satisfy minimum standards. In particular:
 - ◀ 30-50 people were kept in a small room of about 20 square meters, without sufficient air, people were also kept en masse in a detention center garage
 - ◀ Children and women were kept with adult men
 - ◀ The detention rooms did not satisfy minimum health and hygiene standards
 - ◀ The detainees were not allowed access to toilet facilities, which resulted in damage to their health
 - ◀ The detainees were not provided with necessary nutrition. For example, in some detention sites, people were not given food or water for a whole day while in other sites they were

given a small piece of cookie with tap water on the first day and chloramine-tainted tea on the second day.

- ◀ People who required medical attention were not provided with necessary assistance.
- During the mass arrests, the Law on Criminal Procedure was seriously violated. In particular:
 - ◀ The detainees were not informed of their rights or the reason for their arrest. The families were not immediately notified about the arrests.
 - ◀ During the arrests and the interrogations, the police did not inform citizens of their basic rights such as the right to have a lawyer present and the right not to testify against oneself.
 - ◀ People with disabilities and children were interrogated without the presence of a parent, legal guardian, representative or lawyer.
 - ◀ The detainees were forced to give and sign statements under torture and duress.
 - ◀ Television footage is being used as stand-alone evidence and repeatedly broadcast on the Mongolian National Public Television and Radio.

As a result of the above violations, the detainees and their family members and friends have suffered severe psychological damage over and above significant material losses. Even after 5 days have passed since the initial arrests, there are over 70 people who have not been located and their family and friends are still looking for them.

Given these serious and numerous violations of international human rights laws such as the Universal Declaration of Human Rights, International Pact on Civil and Political Rights, Rome Statute on the International Criminal Court, and the International Convention against Torture and Inhuman Treatment, the Constitution of Mongolia and the Law of Mongolia on Criminal Procedure, lead us to conclude that the on-going interrogation process is illegal.

Basic human rights principles, which dictate that no one may be subjected to torture, inhuman treatment, humiliation and cruel punishment, must be strictly followed at all times. Violation of these principles can not be justified under any circumstances. Therefore, we demand that egregious violations of human rights and freedoms be stopped immediately.

The temporary closure of all broadcast media with the exception of the Mongolian National Public Radio and Television resulted in a dire lack of objective and timely information. In the context of an already distressed and anxious public, this unbalanced and one-sided information further increased people's fears and severely undermined their trust in state protection. These events have clearly demonstrated the fragility of Mongolia's democratic institutions and the weaknesses of Mongolia's national human rights protection mechanisms.

For these reasons we call on the government, political parties, citizens and civil society organizations to make a concerted effort to resolve the current situation peacefully, based on human rights, to restore and protect the rights of our citizens who have been affected by the mass arrests, and to strengthen human rights guarantees in Mongolia. It is of vital importance that we work together to protect and ensure fundamental human rights in Mongolia.

Center for Human Rights and Development

Law and Human Rights Center
National Center against Violence
Open Society Forum
Globe International
Philanthropy for Development Center
Mongolian Women's Fund
Step by Step NGO
"Let's Develop" Club
Amnesty International
Citizen D.Lamjav
Mongolian Women's Federation
Mongolian Men's Association
"Mongolian Family" Psychotherapy
Association

National Federation of Disabled Citizens'
Unions
Save the Children Fund
ECPAT National Network
"Child Protection" Coalition
Youth Development Center
Association for Family Wellbeing
Center for Citizens' Alliance
Nisora Development Fund
Citizens' Alliance Center
Asian Focal Point for the International Civil
Society Forum for Democracy