



ANNUAL REPORT

OF MONGOLIAN NATIONAL PREVENTIVE
MECHANISM OF TORTURE

2022

Ulaanbaatar
2023



NATIONAL PREVENTIVE
MECHANISM OF TORTURE

Annual Report of Mongolian National Preventive Mechanism of Torture 2022

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INTRODUCTION

The right to be free from torture and inhuman, cruel, and degrading treatment is an absolute right that can never be limited under the Constitution of Mongolia and international law. In other words, it is forbidden to restrict this right on any grounds. Since torture seriously violates human dignity and the civilized norms of behavior in a democratic society, there is no more important interest than the prohibition of torture...¹

The 2022-2023 Amnesty International report concluded that “Authorities in many countries continue to violate human rights to life, liberty, a fair trial, and physical integrity. These violations typically occur in the government’s response to a political crisis or state of emergency, or in the implementation of illegal, arbitrary and response measures that are not appropriate to the extent of the situation by law enforcement and judicial authorities ...”².

On November 2, 2000, Mongolia joined and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly on December 10, 1984, and entered into force on June 26, 1987 (hereafter Convention against Torture).

States Parties to this convention are obliged to take effective measures to combat torture and to compensate for the damage caused by exposure to it.

On December 11, 2014, the Great Khural of Mongolia approved the Law on Ratification of the Optional Protocol to the Convention. On March 14, 2015, the Optional Protocol came into force, according to which Mongolia is committed to establishing the National Preventive Mechanism of Torture.³

The Recommendations made by the United Nations Subcommittee for the Prevention of Torture followed up the visit to Mongolia from September 11 to 20, 2017, according to its mandate granted by the Convention against Torture and its Optional Protocol, reflected: “18... When establishing a national preventive mechanism it is important to ensure full compliance with the Optional Protocol and the Subcommittee Guidelines on National Preventive Mechanism. It is appropriate to establish a national prevention mechanism as a result of transparent operations through public discussion involving civil society organizations and other participants”.

Section 4.4.12 of the “Action Program of the Government of Mongolia for 2020-2024”, approved by the Annex to Resolution No. 24 of 2020 of the Great Khural of Mongolia, states “Will be carried out actions on developing a human rights-based approach to the activities of law enforcement agencies, improvement of the legal framework to stop human rights violations, and the prevention of torture will be implemented effectively”.⁴

¹ Institute for Advanced Human Rights Policy. Status Report on human rights in Mongolia /review study/ UB, 2021, page#21

² www.amnesty.mn and the Amnesty International Report 2022/23: The state of the world’s human rights. UB. Page#29

³ <https://legalinfo.mn/mn/detail?lawId=10795> Law of Mongolia on the Ratification of the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁴ <https://legalinfo.mn/mn/detail/15586>

The mandate and functions of the Commissioner in charge of the Prevention of Torture and the legal regulation of the National Preventive Mechanism were reflected in the Law on the National Human Rights Commission of Mongolia, by the amendment of the Great Khural made on January 23, 2020.⁵

Following the requirements of the Law on the National Human Rights Commission of Mongolia: “The Commissioner in charge of the Prevention of Torture must have experience in the field of law, criminal proceedings and the protection of human rights”, through 7 stage hearings and the 2nd round of open selection which lasted for 1.6 years of the Commission with the participation of multidisciplinary representatives of the Standing Commission of Justice, Mr. Tselmen Yadamjav - Ph.D. was appointed as a Commissioner in charge of the Prevention of Torture by Resolution No. 29 of the State Great Khural of Mongolia on June 2, 2022, by obtaining a majority vote.

According to Section 31.4 of Article 31 of the Law on the National Human Rights Commission of Mongolia, “The Commissioner in charge of the Prevention of Torture shall present and publish the report of the activities of the National Preventive Mechanism of Torture in the first quarter of each year to the Standing Committee of Justice” the 2022 report is submitted.

The report of the National Preventive Mechanism developed, covering the period from June 2 to August 4th, 2023, when the Commissioner in charge of the Prevention of Torture was appointed, when the unit with the functions of its assistance was established, based on monitoring visits, torture prevention training, and promotion, cooperation, official statistics of government agencies, studies, complaints and information from citizens and their resolutions.

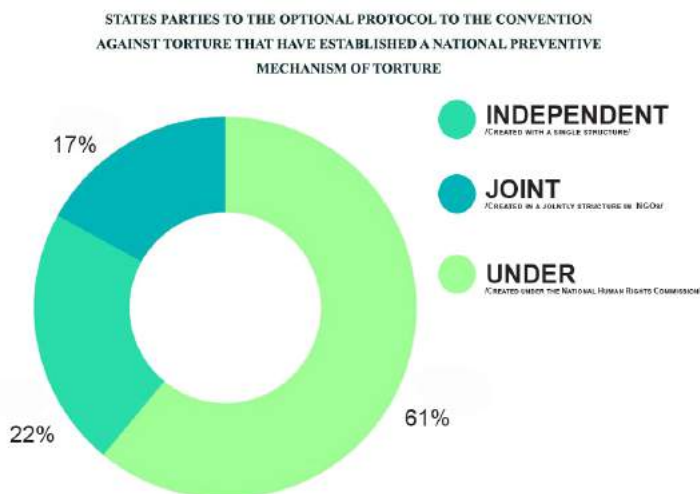
⁵ <https://legalinfo.mn/mn/detail?lawId=15152>

1. IMPROVEMENT OF THE LEGAL ENVIRONMENT OF THE NATIONAL PREVENTIVE MECHANISM OF TORTURE

1.1. The current state of implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 3 of the Optional Protocol to the Convention Against Torture states “Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment” and the States Parties have obtained obligation to establish a national preventive mechanism of torture.

1.1.1. National Preventive Mechanisms of other countries



As of March 2023, 72 out of 91 countries that have acceded to the Optional Protocol to the Convention against Torture have established national preventive mechanism in 3 main points, following their national circumstances and legal systems, and ensure its implementation.

For example: 16 countries have established independent mechanism by adopting a law on National Preventive Mechanism, 12 countries have established National Preventive Mechanism in the form of joint participation of the Governmental and non-governmental organizations, and by distributing functions to several existing mechanisms.

A total of 44 countries have established National Preventive Mechanism under the Human Rights Institutions by assigning duties, following the recommendations of the United Nations Subcommittee on Prevention of Torture, states parties continue to establish their National Preventive Mechanism /hereafter NPM/ independently.

In this sense, the UN Subcommittee on the Prevention of Torture recommends the best practices of countries such as Brazil, the Federal Republic of Germany, and Tunisia to countries that have joined the Optional Protocol to the Convention against Torture:

- **Brazil** has established a National System for the Prevention and Combat Torture, consisting of the National Committee for the Prevention and Combat Torture; National Mechanism for the Prevention and Combat Torture; National Penitentiary; National Council on Criminal and Prison Policy; The Local Committee for the Prevention and Combat Torture and ensures its functions.⁶

The National Congress of the country adopted Law No. 12847 on “Forming a National System for the Prevention and Combat Torture; Establishing a National Committee for the Prevention and Combat Torture and a National Mechanism for the Prevention and Combat Torture; and Other Regulations” dated August 2, 2013, and created a legal framework to prevent and combat torture.⁷

- **The Federal Republic of Germany** has established a National Preventive Mechanism with two structures, on November 20, 2008, the Federal Agency for Prevention of Torture, and on June 25, 2009, the Joint Commission. The Federal Agency is responsible for the oversight of facilities under the jurisdiction of the Federal Republic of Germany, such as the Federal Police, the Federal Armed Forces, Border Control, and forced return flights; the Joint Commission oversees judicial, police, and mental health institutions similarly under the jurisdiction of the Länder.

The Federal Agency and the Joint Commission have formed the National Preventive System of Torture and carry out preventive functions through closely coordinated operations.⁸

The functions and mandate of the National Preventive System are regulated by the “Law on the Establishment of a National Preventive Mechanism” approved on November 25, 2009.⁹

- Following Article 3 of the Optional Protocol to the Convention against Torture, the Republic of **Tunisia** established the National Preventive Mechanism as a National Agency for the Prevention of Torture with full legal capacity, administratively and financially independent.

The National Agency consists of 16 members, including 6 representatives of civil society and NGOs working in the field of human rights protection, 2 experts in the social field, 1 professor at the Law University, 1 expert in the field of child protection, 2 in the legal field and 3 in health and 2 retired judges.¹⁰

- On April 25, 2014, the **Republic of Italy** established the National Guarantor as an Independent National Prevention Mechanism, two years after acceding to the Optional Protocol to the Convention against Torture. The National Guarantor is constituted in college, composed of the President and two members. The General Secretariat has 25 staff units, which consist of and implement its function: General Secretariat, Accounting

⁶ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FOP%2FBRA%2F1&Lang=en

⁷ [L12847 \(planalto.gov.br\)](http://planalto.gov.br/L12847)

⁸ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FOP%2FDEU%2F2&Lang=en

⁹ [Staatsvertrag_Laenderkommission.pdf \(nationale-stelle.de\)](http://Staatsvertrag_Laenderkommission.pdf(nationale-stelle.de))

¹⁰ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FOP%2FTUN%2F2&Lang=en

and IT Support; Deprivation of liberty by the Police Forces; Deprivation of liberty in criminal matters; Deprivation of liberty and migrants; Deprivation of liberty and migrants; Studies, National and International Relations; Support to the College; Studies, National and International Relations.¹¹

- The **Kyrgyz Republic** is one of the few countries in Central Asia that has established an independent national preventive mechanism. Adopting the Law on the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment on July 12, 2012, laid the legal framework for its national preventive mechanism. The management of the National Center is the Regulatory Council and implements its functions in 7 provincial branches. At the same time, the Regulatory, Analytical Department, and Preventive Monitoring Departments.¹²

- On October 18, 2006, the **Republic of Senegal** joined the Optional Protocol to the Convention against Torture, becoming one of the first States parties to the Optional Protocol on the African continent. In March 2009, an independent national preventive mechanism - the National Observer of Places of Deprivation of Liberty The National Observer started performing its functions as part of 6 permanent national observers, 5 external observers, and 6 employees of the administrative department.¹³

- Although the **Federal State of Australia** ratified the Optional Protocol to the Convention against Torture in December 2017, the country fulfilled its obligations under the Optional Protocol on January 20, 2023, by creating the Commonwealth National Preventive Mechanism made up of three independent bodies: The Office of the Inspector of Correctional Services, The ACT Human Rights Commission, The ACT Ombudsman. Monitoring visits held at Commonwealth jurisdictions such as Immigration detention centers, the Australian Federal Police, and the Defense Force.¹⁴

Mongolia

Article 10, Section 3 of the Constitution of Mongolia states: “The international treaties to which Mongolia is a Party shall become effective as domestic legislation upon the entry into force of the laws on their ratification or accession.”

The observations and recommendations addressed to the State Party of the UN Subcommittee on Prevention of Torture following a visit to Mongolia undertaken in 2017 included the following content:

“The Subcommittee recommends that the following elements, drawn from the Subcommittee’s guidelines on national preventive mechanisms, be taken into account by the authorities when designating or establishing an independent and effective national preventive mechanism:

(a) The national preventive mechanism should be established in accordance with the relevant provisions of the Optional Protocol and of the Paris Principles;

¹¹ [National Guarantor of private freedoms - Office \(garantenazionaleprivatiliberta.it\)](#)

¹² [National legislation - NPM](#)

¹³ [Referral to the National Observer | ONLPL](#)

¹⁴ [About us | Commonwealth Ombudsman](#)

(b) The mandate and powers of the national preventive mechanism should be clearly set out in a constitutional or legislative text, and the operational independence of the mechanism should be guaranteed by law and in practice;

(c) The members of the national preventive mechanism should be independent and impartial and must have the requisite capabilities and professional knowledge, including medical, psychological and other related expertise to effectively fulfil its functions;

(d) The national preventive mechanism should have sufficient personnel to ensure that it can fulfil its functions under the Optional Protocol and that it has the operational capacity corresponding to the number of places of detention within the scope of its mandate;

(e) The necessary resources should be provided to permit the effective operation of the national preventive mechanism, and the national preventive mechanism should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol. Resources should be assured through a separate line in the annual budget and should be predictable, to allow the national preventive mechanism to develop its annual workplan and visits and plan its cooperation with other partners;

(f) The national preventive mechanism should complement rather than replace existing systems of oversight in Mongolia, and its establishment should take into account effective cooperation and coordination between preventive mechanisms in the country and not preclude the creation or operation of other such complementary systems;

(g) The State party should ensure that the national preventive mechanism is able to carry out visits in the manner and with the frequency determined by the mechanism. This includes the ability to conduct private interviews with those deprived of liberty and the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol;

(h) The national preventive mechanism should play a prominent role in in the country's system for prevention of torture and ill-treatment, with a high degree of institutional and public visibility. In that regard, the Subcommittee stresses the importance of increasing public awareness of the mandate and work of the mechanism and the need for it to be recognized as a key component in that system”

The National Human Rights Commission has included the proposal to immediately establish a National Preventive Mechanism of Torture in its “18th Status Report on Human Rights and Freedoms in Mongolia”¹⁵ according to the Optional Protocol to the Convention against Torture.

The mandate and functions of the Commissioner in charge of the Prevention of Torture and the legal regulation of the National Preventive Mechanism were reflected in the Law on the National Human Rights Commission of Mongolia, by the amendment of the Great Khural made on January 23, 2020.

In this sense, the third regular report /for 2020/¹⁶ on the implementation of the Convention, submitted by Mongolia to the UN Committee against Torture, included the following implementations:

¹⁵ Хүний эрхийн Үндэсний Комисс (nhrcm.gov.mn)

¹⁶ The National Human Rights Commission, and the UN Resident Coordinator Office in Mongolia, Compendium “International human rights treaties and Mongolia “, 2021, UB, Volume Two, Page 457

“148. ...The Law on the Human Rights Commission of Mongolia provides for the establishment of a mechanism to prevent torture....,....

150. 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...

155. The law further sets out the responsibilities of the unit to support the independent member in charge of the 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. CONCLUSION

415. The 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.

416. 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.”.

Mongolia did not make a statement accepting Article 22 when acceded to the Convention against Torture, so the opportunity for a citizen of our country to file a complaint with the UN Committee against Torture is closed. Therefore, researchers and victims of torture propose to submit a notification of acceptance of individual, and international complaints, and information procedures of the Convention against Torture.¹⁷

1.2. Implementation of the legal regulations of the National Preventive Mechanism

Article 3 of the Law on the National Human Rights Commission of Mongolia explains: “The following terms used in the law should be understood with the following meanings.” It includes:

- “National Human Rights Commission of Mongolia” - an independent and impartial national organization with the function of protecting and promoting human rights and monitoring the implementation of human rights and freedoms stipulated in the Constitution, laws, and international treaties of Mongolia;

- “Prevention of torture” – an independent, impartial, and complex operation to prevent torture and other cruel, inhuman, or degrading treatment or punishment.

Article 12 of the Law on the National Human Rights Commission of Mongolia states in Section 12.1 that “The Commission shall consist of six Commissioners” and the Commissioner in charge of the Prevention of Torture is not a member of the Commission according to the concept and terminology of this law.

The title of chapter eight of this law was composed of “Guarantees for the commissioners and commissioner in charge of the prevention of torture matters”.

¹⁷ Implementation of the right to be free from torture and other inhuman treatment” (Mongolian Human Rights NGO Forum, 2019.10.03).

Section 16.3 of Article 16 of the Law on the National Human Rights Commission of Mongolia states: “The meetings of the Commissioners discuss and decide on the following issues within the framework of the functions provided for in Article 7.1 of this Law:”. The fact that this section does not include issues related to the prevention of torture not only testifies to the independence of the National Preventive Mechanism of Torture but also reminds the functions of the Commissioner in charge of the Prevention of Torture are separate from other Commissioners of the National Human Rights Commission.¹⁸

In addition, by Article 19, paragraph 19.1.10 of the Law on the National Human Rights Commission of Mongolia, the head of the Commission is responsible for the duty of “To support the operations of the Commissioner in charge of the Prevention of Torture matters”.

1.2.1. Human resources of the National Preventive Mechanism

According to Resolution No. 29 of the Great Khural of Mongolia dated June 2, 2022, a Commissioner in charge of the Prevention of Torture was appointed to the National Human Rights Commission of Mongolia.

Section 36.1 of Article 36 of the Law on the National Human Rights Commission of Mongolia states “Full-time unit shall work for the Commissioner in charge of Prevention of Torture Matters to assist him/her.”, ...and exercise only functions provided in Article 33.1 of this Law”.

Within the scope of the mandate of the Commissioner in charge of the Prevention of Torture, the human resource issue was organized to have 10 employees, and at a meeting of the Civil Service Council on July 7, 2022, the “Position Description” was approved.

The National Preventive Mechanism began its work with a team of 3 people: by order B / 01 of the Commissioner in charge of the Prevention of Torture dated August 4, 2022, the Acting Head of the Department of the Prevention of Torture was appointed¹⁹; and by order, B/50 of the Director of the Commission Secretariat on the same day, the Acting Senior Referent in charge of the Monitoring and Evaluation²⁰, by order B/51 a Senior Officer in charge of record keeping²¹ were appointed.

By order of the Director of the Commission Secretariat dated September 28, 2022, No. B / 80, the Acting Senior Media Officer was appointed, thus the National Preventive Mechanism began to fulfill its duties stipulated by law, consisting of 4 employees.

Under the resolution of the Civil Service Council and the procedure provided by the law, the Senior Media Officer was appointed by order of the Director of the Commission Secretariat dated January 2, 2023, No. B/04.

¹⁸ Open Society Forum, “National Preventive Mechanism of Torture” - Handbook for a Commissioner in charge of the Prevention of Torture and Units on Torture Prevention, UB, 2021, page #30

¹⁹ Based on the Resolution No. 06/316 of the Civil Service Council dated February 8, 2023, and related laws and regulations, the Head of the Department of the Prevention of Torture, by Order No. B/01 of the Commissioner in charge of the Prevention of Torture dated February 14, 2023, was appointed.

²⁰ By order No. B/50 of the Director of the Commission Secretariat dated January 30, 2023, the Acting Senior Referent in charge of the Monitoring and Evaluation was dismissed from his position.

²¹ Based on Resolution No. 85 dated March 14 of the Civil Service Council and related laws and regulations, by order of the Director of the Commission Secretariat B/41 dated March 15, 2023, the Referent in charge of the Training and by order B/46 the Senior Officer in charge of the Commonwealth were appointed.

In addition, by order of the Director of the Commission Secretariat dated January 30, 2023, No. B/11, the Acting Senior Referent in charge of the Monitoring and Evaluation was relieved of his position due to participation in the exam Civil Service Council.

Although the Civil Service Council has approved the “Position Description” to have 10 employees, the National Preventive Mechanism implements its operation with 4 employees in an insufficient budget as of May 15, 2023, due to circumstances of adaptation and application of the Mongolian Law on State Austerity aimed to accelerate recovery from the post-pandemic economic crisis.

Article 31, Section 31.3 of the Law on the National Human Rights Commission of Mongolia stipulates “Budget for prevention of torture shall be complete, continuous, impactful and adequate for working independently.”

2020 amended Law on the National Human Rights Commission of Mongolia does not fully meet the conditions for the financial independence of the National Preventive Mechanism of Torture. Specifically, the Ministry of Finance removed 5 positions and their salaries from the 2022-2023 budget of the National Preventive Mechanism (out of a total of approved 11 positions and salary funds) and reduced the operational costs, so the State Great Khural approved the budget submitted by the Ministry of Finance.

The Commissioner in charge of the Prevention of Torture, Unit with Supporting Functions to him spent MNT 166,241,268.71 out of the budget of the National Human Rights Commission of Mongolia financed from the state budget in the amount of MNT 2,739,911,100.00 following laws and regulations.

In 2023, the National Human Rights Commission of Mongolia is financed with MNT 4,480,547.10 by the state budget, and MNT 439,976.02 of this budget is dedicated to operating expenses of the Commissioner in charge of the Prevention of Torture and the Unit with Supporting Functions to him.

1.2.2. Qualification and Capacity Building of human resources

The National Preventive Mechanism performs its functions with a staff of lawyers, psychologists, and journalists who have many years of experience in legal management and teaching, and who have worked to protect human rights and vulnerable sections of society.

To meet the criteria and requirements outlined in the laws and regulations on the Civil Service and to improve the knowledge and professional skills of the employees in accordance with the Optional Protocol to the Convention against Torture, the employees of the National Preventive Mechanism are actively involved in relevant training and programs.²²

It includes:

- 3 employees of the National Preventive Mechanism attended and successfully completed the training package for the head, in charge, and senior officer of the National Academy of Governance under the Government Secretariat.
- Orientation training for newly appointed employees of the National Human Rights Commission

²² Annual Report of Mongolian National Preventive Mechanism of Torture

- Training on the topics of participation and cooperation of the National Human Rights Institution in the international community, foreign relations of governmental organizations: “Ceremony-Organizational External Relations” “National Human Rights Institution and International Mechanism and Communities” “Activities of Networks of Member Organizations of the Asia-Pacific Conference”

Introduction-training on the content and concept of the “Principles on Effective Interviewing for Investigations and Information Gathering” jointly developed by “the Anti-Torture Initiative”, “the Association for the Prevention of Torture”, and “the Norwegian Center for Human Rights” and the need and requirement to exercise in activities.

- Training on conducting monitoring visits in accordance with human rights standards based on the manual “Monitoring in prisons and detention centers” developed by the International Organization “Amnesty International Mongolia”

- Training on the topic “International treaties and conventions on human rights to which Mongolia has acceded.”

In addition, employees are regularly included in systematic training on Mongolian laws and legislations, which are used in the framework of torture preventive operations and monitoring visits: namely the Constitution of Mongolia, the Law on Criminal Code, the Law on Criminal Procedure, the law on Infringement, the Law on Investigation of regulatory Infringement, the Law on General Administrative, the General Administrative Law, the Law on Personal Data Protection, the Law on Labor, the Law on the Enforcement of Court Decision, etc.

2. MONITORING THE CHARACTERISTICS OF LEGAL REGULATION AND STATISTIC OF CRIMES OF TORTURE, ILLEGAL DETENTION, AND DISCRIMINATION

2.1. Traditions and Reforms in the Legal Regulation of Torture, Illegal Detention, and Discrimination Comparing the nature of the crime of torture:

Article 251 of the Criminal Code 2002	Article 21.12 of the Criminal Code 2015
251.1. In case of use of force or threat of use of force, torture, bullying, or deceit for compelling confession, the case registrar or investigator shall be deprived of the right to hold certain positions and engage in activities for up to three years and shall be punished with imprisonment for up to five years.	The causation of physical or mental sufferings by a public servant for motives of extracting information, testimony, forcing of acceptance, sentencing by way of discriminating, self or inflicting others by expressing, issuing permit shall be punishable by a fine equal to five thousand four hundred to twenty seven thousand units, or imprisonment for a term of one to five years.
251.2. If, as a result of this crime, less grievous, grievous bodily injury to the health of a person or damage on a large scale is caused, the right to hold certain positions or engage in activities for up to five years and shall be punished with imprisonment for a term of five to ten years.	
251.3. If the victim dies as a result of this crime, the punishment will be imprisonment for a term of ten to fifteen years.	
Note: According to the Criminal Code of 2015, in the case of less grievous, grievous bodily injury to the health of a person or damage on a large scale caused, or the death of the victim, depending on the nature of the fault, the perpetrator shall be punishable by dual criminal charges under the Criminal Code: causing less grievous, grievous or slight bodily injury to the health of a person or causing death or killing.	

The inclusion of “torture” in the Criminal Code as an aggravating circumstance for four types of crimes creates uncertainty in the classification of crimes, so the researchers proposed to define the crime of “torture” in accordance with the Convention against Torture and toughen the punishment.²³

In addition, the content of Article 21.12 of the Criminal Code of 2015 does not fully include the term “torture” which 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 when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence” of Article 1 of the Convention against Torture.

Therefore, it is appropriate to amend the Criminal Code so that even a third person with the motive and purpose of torture, humiliation, or coercion shall be criminally liable.

Article 16.14 of the Constitution of Mongolia stipulates “the citizens of Mongolia are guaranteed to exercise the right “to be compensated for the damage illegally caused by others”. Article 14.1 of the Convention against Torture states “Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an

²³ Implementation of the right to be free from torture and other inhuman treatment” (Mongolian Human Rights NGO Forum, 2019.10.03).

enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation”.

However, the courts do not always “realistically” eliminate the damages caused by torture, especially non-material, therefore, it is necessary to ensure the implementation of legislation on compensation for physical and non-material damages to victims of torture and other victims²⁴.

Case

*...I spent 274 days in custody and served 3 months in prison during the 11-year criminal investigations. The civil court decided to compensate me for the damages caused by this, but later re-investigated some criminal cases and dismissed the case because the statute of limitations had expired... The doors of the government organization have been closed for 20 years to me due to my complaint against the relevant detective, prosecutor, and judge who never investigated my complaint because of their bureaucracy and delays. When I go to all places to restore the violated rights and freedom of the citizens, as stipulated in the Constitution of Mongolia, the case is sent back to the prosecutor, and from there the previous answer is sent to me... Therefore, I have filed a complaint according to the State Inspection Law... **(From the notes of the interview with T.G.)***

On the other hand, after the dissolution of the Investigative Department under the Prosecutor General’s Office in 2014, investigations became a conflict of interest and ineffective, and the investigation, and prosecution of torture crimes have seriously decreased according to the unanimous conclusion of the UN Human Rights Council and the UN Treaty Bodies, the National Human Rights Commission, and the Mongolian Human Rights NFO Forum.²⁵.

Since the Criminal Procedure Law does not strictly regulate that the evidence collected through torture is not considered as evidence, the advocates and researchers propose to incorporate the provision prohibiting it from being considered as evidence by adding amendments to this law.

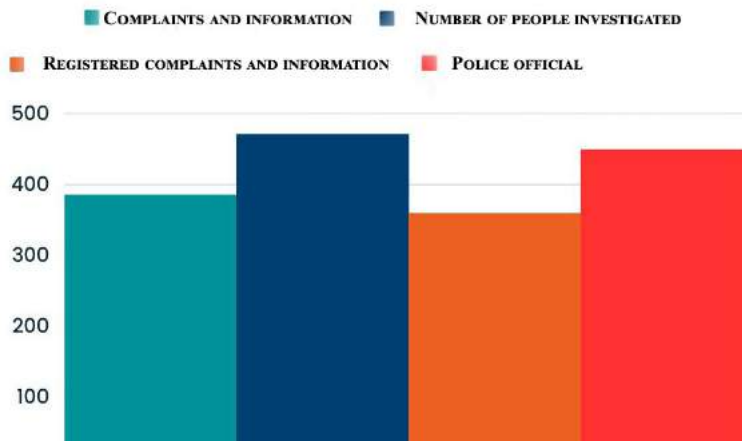
²⁴ 14th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2015), 19th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2020), Page #162-166

²⁵ “Recommendations from other countries during the discussion of the third National Report on the status of human rights in Mongolia at the 36th session of the working group of the UPR of the UN Human Rights Council” (2020), §4, 49, 51, 52, 53, 54, 55; “Conclusion of the Human Rights Committee after discussing the sixth regular report of Mongolia on the implementation of the International Covenant on Civil and Political Rights” (2017), §21; “Recommendations to Mongolia on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (2016), §15; “Visit of the United Nations Subcommittee on Prevention of Torture to Mongolia from September 11 to 20, 2017: observations and recommendations to States parties” (2017), §26-29; 18th Status Report on Human Rights and Freedoms in Mongolia (NHRC 2019); Implementation of the right to be free from torture and other inhuman treatment” (Mongolian Human Rights NGO Forum, 2019.10.03).

2.2. Complaints about torture, illegal detention, and discrimination and statistics on their resolution

The police information indicates that:²⁶ “... The Anti-Corruption Agency investigates complaints, information, and crimes related to torture and crimes involved with police and intelligence officers in the workplace following the orders of the General Prosecutor’s Office of Mongolia No. , A/67 of 2017. No. A/33 of 2020 in connection with it it becomes not possible to release information on crimes and violations in this regard. Department of Internal Control and Security of the National Police Agency received and investigated 7 appeals, complaints, and information about cases of torture, inhuman treatment, and discrimination against police officers and domestic military personnel in 2017-2023. As a result of investigations on 6 complaints, no offenses were found on the part of the officials, and 1 complaint was transferred to the Investigation Department of the Anti-Corruption Agency for investigation and resolution... There is no list of research papers in the field of torture prevention...”

During the discussion of the third National Report on the status of human rights in Mongolia at the 36th session of the Working Group (UPR) of the United Nations Human Rights Council for the Review of the State of Human Rights, other countries have made recommendations²⁷ to Mongolia such as: “...establish an independent and effective procedure to investigate complaints of torture, particularly against persons deprived of their liberty (Mexico, France, Poland, Romania); Establish an independent body to investigate cases of torture and degrading treatment (Maldives, Botswana, Spain).



However, according to the information of prosecutor’s office²⁸, for the last half of 2017 and 2018-2022 in total 471 people were examined in 385 complaints and information on crimes 13.9 /Illegal detention/, 14.1 /Discrimination/, 21.12 /Torture/ referred to a special class of the Criminal Code. Of these complaints, 359, or 93.2 percent

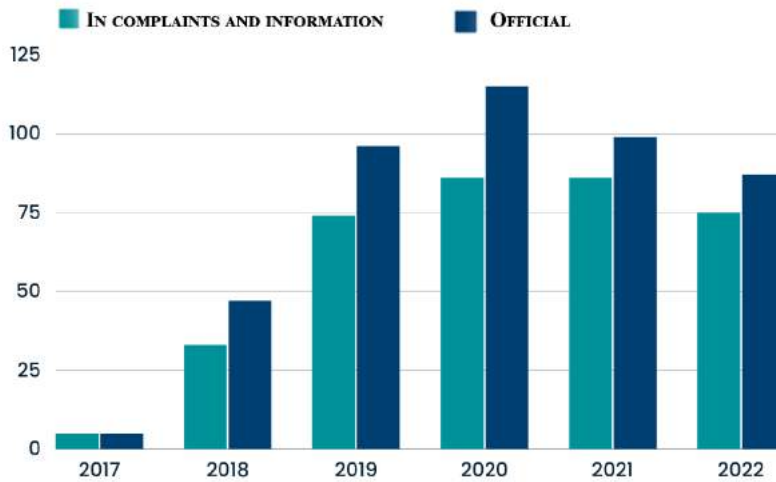
²⁶ From the information provided by the deputy head of the Investigation Department of the National Police Agency in official letters No. 9/1-888 of 01/25/2023

²⁷ [Universal Periodic Review \(UPR\) | Mongolia 2010 \(upr-mongolia.mn\)](#). On December 14, 2022, 170 recommendations were made after discussing the 3rd regular public discussion mechanism on the state of human rights.

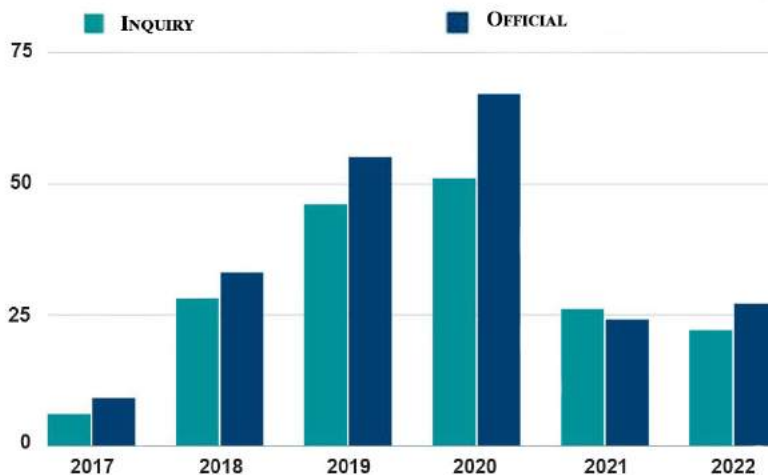
²⁸ From the official letter No. 4/1751 dated February 6, 2023, of the assistant prosecutor of the General Prosecutor’s Office, head of the Department for monitoring inquiries and investigations.

were related to police officers, and 449, or 95.3 percent of all persons investigated were police officers.

In the information provided by the Institute for Judicial Research, Information, and Training under the Judicial General Council to the National Human Rights Commission on the state of resolution of the crime of torture in 2017 and 2018, it was reported that no cases related to Article 251 of the Criminal Code of 2002 and to Article 21.12 of the Criminal Code of 2015 /Torture/ have been proceeded by the Court of First Instance of Criminal Cases in those years²⁹.

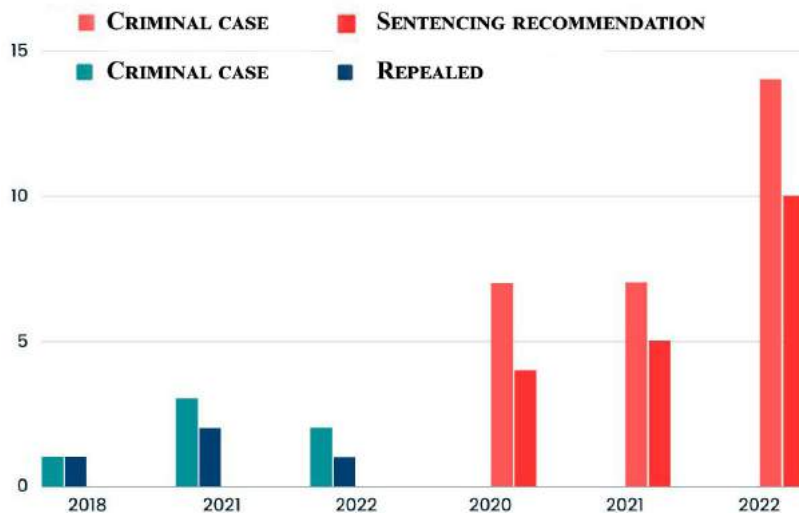


As of the first half of 2017, citizens and officials filed 5 complaints and submitted 5 reports of these crimes against police officers, while in 2018 there were 33 complaints and 47 reports, in 2019, 74 complaints and 96 reports, and in 2020, 86 complaints and 115 reports, in 2021, 86 complaints and 99 reports, and in 2022, 75 complaints and 87 reports were filed.



²⁹ From the official letter No. 04/259 dated March 19, 2019, of the Institute for Judicial Research, Information, and Training under the Judicial General Council.

As of the second half of 2017, 9 police officers were investigated in 6 inquiry cases, in the year 2018, 33 police officers in 28 cases, in 2019 - 55 police officers in 46 cases, in 2020 - 67 in 51, in 2021 - 35 in 26, and in 2022 27 police officers were investigated in 22 inquiry cases.



The prosecutor’s office dismissed 1 criminal case related to 1 person in 2018, 1 case related to 1 person in 2020, 2 cases related to 3 people in 2021, and 1 case related to 2 people in 2022. In 2018 and 2019, an indictment was sent to the court in 1 criminal case against 1 person each, and in 2020 4 cases related to 7 people, in 2021 2 cases related to 4 people, and in 2022 5 criminal cases related to 7 people, which is increased by 2.5 times in 2022 compared to the previous year.

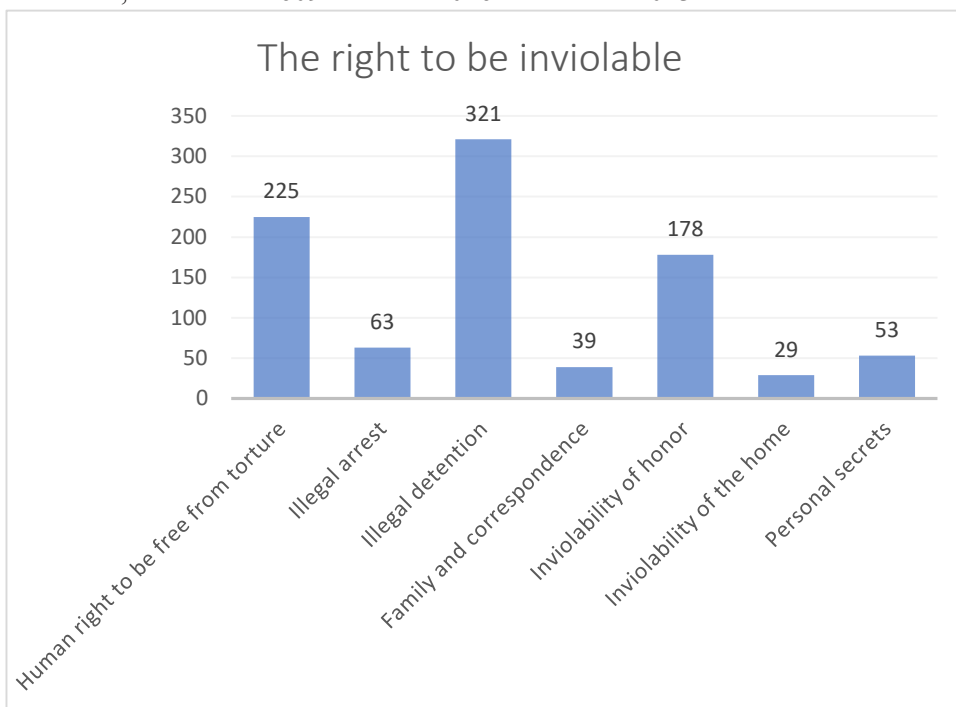
Statistics of complaints and information submitted to the National Human Rights Commission by citizens and officials from March 2016 to March 2023 regarding the inviolable civil right stipulated in the Constitution of Mongolia³⁰

Data on illegal arrests and illegal detentions included in the statistics constitute the crime of “torture” under the Convention against Torture and it is appropriate to summarize them.

Violation of rights	2016	2017	2018	2019	2020	2021	2022	2023.02.28	Total
Right to be free from torture	40	25	40	28	47	27	15	3	225
Illegal arrest	1	1	11	21	8	10	11	0	63
Illegal detention	38	20	51	56	21	44	85	6	321
Family and correspondence	2	7	13	3	1	7	6	0	39
Inviolability of dignity	16	11	15	20	25	47	44	0	178
Inviolability of the home	1	1	3	6	3	7	5	3	29

³⁰ According to information from the Department for Complaints and Information Investigation of the National Human Rights Commission...

Citizens and officials submitted 225 complaints of violation of the right to be free from torture, 63 illegal arrests, and 321 illegal detention to the National Human Rights Commission, or a total of 609 between 2016 and March 2023.



The solution to this statistic is as follows:

- Refuse to resolve complaints according to the Law on the National Human Rights Commission of Mongolia.
- The complainant withdraws the complaint
- Transfer criminal complaints and information to the jurisdiction under the Law on Criminal Procedure
- Carry out appropriate monitoring and submit Commissioner’s recommendations and requirements to the relevant organization

Section 22.2 of Article 22 of the Law on the National Human Rights Commission of Mongolia states “Commissioners shall not receive complaints and information about criminal, civil, administrative, and infringement cases and/or disputes, which are at the stage of registration/inquiry of cases, investigation and/or on trial or have been already decided.”



3. TORTURE PREVENTIVE MONITORING VISITS

Visit to Mongolia undertaken in 2017: *observations and recommendations addressed to the State party states: “...(g) The State party should ensure that the national preventive mechanism is able to carry out visits in the manner and with the frequency determined by the mechanism. This includes the ability to conduct private interviews with those deprived of liberty and the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol;”*.

The mandate of the Commissioner in charge of the Prevention of Torture is enshrined in Article 34, section 34.1.1 of the Law on the National Human Rights Commission of Mongolia “To access and conduct inquiries in places provided in Article of 33.1.1 of this Law during any period of the time;” and Article 34.1.3 “To acquire any kinds of information relating person who has been limited his/her freedoms in places provided in Article of 33.1.1 of this Law;”.

The National Preventive Mechanism of Torture carried out monitoring visits to places from which a person cannot leave at their request, following the monitoring methodology issued by the UN Subcommittee on Prevention of Torture, and held personal meetings with the managing team, officers, guards, security personnel, as well as with persons who are in places no able to leave at their own free will, and oral and written interviews were taken with them.

As part of the monitoring visits, a total of 1,954 questionnaires were carried out, 411 people who were deprived of their liberty, and 48 employees and servicemen were interviewed individually.

3.1. Monitoring visits to the Court Decision Executive Branch

The Court Decision Executive Branch conducts the process of serving sentences under the “Penitentiary Facility, its Territorial Location and Correctional unit regime” approved by Government Resolution No. 204 of 2017 in 5 closed, 7 open, 5 open and closed, 1 woman correctional units, 1 special educational institution, 2 hospitals, a total of 21 correctional units, and in 1 detention center, 1 arrest facility, 1 detention center in the Capital, and 28 detention building in the local area.

Information on the implementation of arrest arrangements³¹

Nº	Content	2020	2021	2022	
1	Total number of suspects arrested	798	821	1075	
2	Of these	Arrested without court approval	793	809	1072
3		Arrested by court approval	5	12	3
4	Suspects who are detained for a period of up to 48 hours by submitting the resolution to the court within 24 hours	330	347	599	
5	Suspects were detained for a period of 48 hours without presenting a decision to the court.	398	334	355	
6	Number of cases taken into custody for the continued detention of a detained suspect	448	496	595	
7	Court-ordered release of detained suspects	117	72	220	
8	Release of a detained suspect by decision of the prosecutor	214	224	232	

³¹ From the annex to the official letter of the Prosecutor General’s Office dated February 16, 2023 No. 4/1750, submitted in response to the official letter of Enkhbold B.A. dated 06/159 dated 02.02.2023, Commissioner of the National Human Rights Commission of Mongolia.

Regarding the application of measures taken into custody at the pre-trial stage³²

№	Content	2020	2021	2022
1	Total number of investigated criminal cases	21041	21242	26149
2	Number of convicts	19959	18486	20608
3	Number of juvenile	1076	966	1326
4	Number of proposals submitted by investigation departments to the prosecutor to take a measure of restraint	1561	1298	1732
5	Number of proposals for a measure to take into custody submitted by a prosecutor to the court	1499	1294	1712
6	Refusal to accept the prosecutor's proposal by the court	161	148	176
7	Number of cases taken into custody taken upon acceptance by the court of the prosecutor's proposal	1867	1454	1561

The National Preventive Mechanism of Torture conducted monitoring visits by the approved guidelines and plans in the following places and locations: Closed correctional unit No. 461 and arrest facility under the General Executive Agency of Court Decision, open Correctional unit No. 425 under the Court Decision Executive Branch in Gobi-Sumber Province, open and closed Correctional unit No. 415 under the Court Decision Executive Branch of Bayan Sum, Tuv Province, detention building and arrest facilities under the Court Decision Executive Branch in Dundgobi and Umnugobi provinces, detention building under the Court Decision Executive Branch in Arkhangai, Bayankhongor, Gobi-Altai, Zavkhan, and Uvurkhangai provinces, open and closed correctional unit No. 423 under the Court Decision Executive Branch in Kharkhorin Sum, Uvorkhangai Province, and the Forensic Psychiatry Clinic of the National Center for Mental Health.

The UN Subcommittee on the Prevention of Torture is concerned that responsibility for police operations and health care services in detention all lies with the Ministry of Justice and Home Affairs. “This may result in serious conflicts of interest, can be detrimental to the effective management of the criminal justice and detention systems, and is inappropriate in terms of prevention because it omits the separation of powers”.³³

To manage police operations as advised by the UN Security Council Subcommittee recommends assigning the responsibility of providing and creating a justice system to individual ministries. Health care and medical services provided in detention center researchers made a recommendation and proposal to transfer the responsibility of providing assistance and services to the Ministry of Health.³⁴

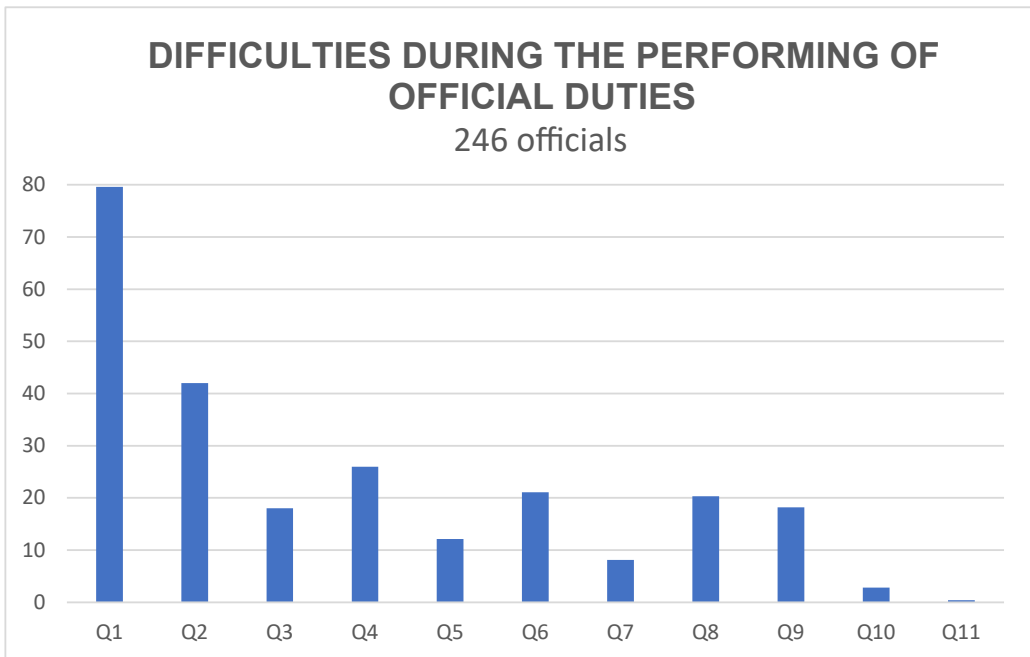
As part of the inspection, some officers were provided with training and information on discrimination, and individual and group interviews. A survey of 246 correctional unit officers on the topic “Difficulties in the performance of official duties” was also conducted. Summarizing the responses shows the following results:

³² From the annex to the official letter of the Prosecutor General's Office dated February 16, 2023 No. 4/1750, submitted in response to the official letter of Enkhbold B.A. dated 06/159 dated 02.02.2023, Commissioner of the National Human Rights Commission of Mongolia.

³³ “Visit of the United Nations Subcommittee on Prevention of Torture to Mongolia from September 11 to 20, 2017: observations and recommendations to States parties” (2017), §23-29;

³⁴ The state of human rights in Mongolia: problems and solutions /review study/, Human rights - Progressive Policy Institute 2021, Ulaanbaatar, page #31

- Question 1. 79.6% answered that they do not enjoy their time off during weekends or holidays and do not receive compensation for overtime work for this;
- Question 2. 42% answered that they work extended hours;
- Question 3. 18% answered that they cannot enjoy their shift holidays;
- Question 4. 26% answered that management methods and work arrangements are poor;
- Question 5. 12.1% answered there are no pieces of training provided to improve their knowledge and education.
- Question 6. 21.1% said that they face verbal abuse, slander, and discrimination from management, colleagues, and prisoners;
- Question 7. 8.1% answered that they have an occupational disease;
- Question 8. 20.3% answered that they were attacked and hurt in their health;
- Question 9. 18.2% answered that the management sets tasks that are not specified in the law and forces them to be fulfilled;
- Question 10. 2.8% said they experienced sexual harassment and discrimination in the workplace.
- Question 11. 0.4% said they were sexually harassed by the Executive Officer



Case
<p><i>“...Executive officers of prison often use abusive language and discriminate and harass in the workplace... Due to this, I am in constant anxiety and depression... More attention should be paid to the legal status, psychological support, and service of employees... (From the notes of a private conversation with a correctional unit official)</i></p>

The “Standard Minimum Rules for the Treatment of Prisoners” adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders states: The prison administration shall provide for the careful selection of every grade of the personnel since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

It is necessary to pay attention to the following conclusions from the individual meetings and survey of 17 employees of the detention center:

- 37% answered “No” to the question “Do you attend training on communication with people who are in custody?”

- 27.3% answered “Yes” to the question “Do you find it difficult to explain internal regulations, schedules, disciplinary procedures, rights, and obligations to a person who does not speak Mongolian or written language, or to a person with a disability?”

- 69.2% answered “No” to the question “Do you enjoy your compensatory time off for the extra hours worked on weekends and holidays?” Do you get paid overtime compensation?”

- 30,8% answered, “Due to a staff shortage, we are called back to work, even when the vacation period has not finished” to the question: “Do you personally enjoy your regular vacation? If not, why?”

The participants of the individual conversation were critical of situations such as “Due to the lack of human resources personnel work in extended hours; lack of capacity in the ways of work and organization of executives officers; and the lack of the opportunity to improve knowledge constantly. In addition, they work in a situation at risk of being attacked by others and getting physically injured, get health problems at the workplace, feel resisted and threatened, and are verbally abused by the people in custody.

In the survey, it was noted that “I work from 08:30 to 21:30 without a single day off in recent months. When I tell them “I need time to take care of my children”, I usually get pressured by some senior officers, saying: “There are not enough officers...there is still no decision from above... this is a military facility, so you better apply for your dismissal and quit your job.”

There was also mention of sexual harassment at the workplace, which was not reported to the relevant organization or official.

The lack of human resources of the Court Decision Executive Branch is related to the fact that, according to the Law on the Military Service Pensions and Allowances, servicemen are released from the service once the conditions of the years of service are fulfilled. Fewer people are mastering this profession, and dismissals and layoffs occur due to the following situations causing a shortage of human resources:

- the inability of wages to provide social guarantees;
- In the course of performing official duties, there is a high risk of getting blamed or, in particular, criminal liability, as well as the violation of the legitimate interests of employees;

- High workload and stress;
- Other.

Fundamental rights and freedoms of the personals, enshrined in Article 23 of the United Nations Universal Declaration of Human Rights “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work”, and in Article 16 of the Constitution of Mongolia “the right to free choice of employment...to receive a remuneration, to rest” has been violated, and conditions have arisen where the implementation of the Labor Law is not met.

Section 3.4 of Article 3 of the Law on Labor defines the scope of the law as “Civil servant labor relations, that are not regulated expressly under the Law on Civil Service and other relevant laws, shall be regulated by this law.”.

However, in places controlled by us, the implementation of the legal norms set forth in the following laws is not ensured: Article 84, Section 84.1 of the Law on Labor, “The hours of ordinary work per week shall not exceed 40 hours”; Section 84.2 of this Article, “The length of a normal working day shall not exceed 8 hours”; Section 84.4 of this Article, “The maximum limit of weekly hours of work shall not exceed 56 hours. The maximum limit of overtime work shall not exceed 4 hours per day”; as well as Article 245, Section 245.2 of the Law on the enforcement of court decision, “Officers of the penitentiary facility shall perform the duty of physical security measures and on-duty sentry by four shifts, in turn”. In particular, personnel of the facilities does not enjoy their compensatory time off for the extra hours worked on weekends and holidays and do not get paid for that overtime.

Despite the fact that the legal norms restricting the rights of military personnel on the characteristics of military service are set out in clause 8.2.1 of Article 8 of the Law on the Legal Status of Military Personnel, “to involve military personnel in overtime work in excess of those established by laws and other legal norms issued in accordance therewith”, and clause 8.2.2 “by decision of prison warden or the head, limit the rest time of military personnel in accordance with military regulations” there are no grounds for violating the protection of the right to favorable working conditions, to take annual leave and receive compensation under the Labor Law.

Regardless from January 1, 2022, military personnel is required to work 24 hours a day in accordance with the provisions of the Law on Labor, “The length of normal work hours shall not exceed 8 hours per shift.” and Section 87.3 of this Article, “Unless otherwise stated in law, an employer may agree with the employee and arrange to extend the length of work hours of a shift by 4 hours at a maximum. In this event, where the employee works for more than 40 hours a week, his/her overtime work remuneration shall be provided in an increased amount as prescribed in Paragraph 109.1 of this law.”, this provision has not been implemented.

Section 2.5 of Article 2 of the Law on Labor stipulates that “If the acts determining legal norms on labor specified in Paragraph 2.3 of this law are in conflict, the regulations that provide more favorable conditions to an employee shall prevail.”

Fundamental rights and freedoms of the personals, enshrined in Article 23 of the United Nations Universal Declaration of Human Rights “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work”, and in Article 16 of the Constitution of Mongolia “the right to free choice of employment...to receive a remuneration, to rest” is violated and the enforcement of the Law on Labor is insufficient.

Case

...For many years, I have been performing the function of administrative officer. When there is a problem in the correctional unit, officials such as the police, the inspection team of the General Executive Agency of Court Decision, prosecutors, and the National Human Rights Commission conduct monitoring visits, and, in the end, the executive officers and employees become the culprits... The systemic causes of problems and factors that contributed to their occurrence still remain the same... Officials and administrative officers of correctional unit make proposals and requests to solve many problems, but whether these proposals reach the relevant officials is unknown... Does not decide... And I consider the appointment of the Commissioner in charge of the Prevention of Torture and the creation of a Unit with the function of assisting him in accordance with the Optional Protocol to the Convention against Torture and the Law on the National Human Rights Commission of Mongolia as an opportunity to bring our proposal and requests to the relevant officials.

(From the notes of the interview with the administrative officer of correctional unit)

During the interview with G.Z, a citizen whose freedom was previously restricted, we obtained information about the causes and factors of the violation of the human right to be free from torture in correctional unit. Also, at the request of citizen T.G., we met with him and gave him advice on how to file a lawsuit in court regarding his illegal detention and served sentence, and how to protect and ensure his legal rights.

We met with 7 citizens O.M., T.Kh., N.M., and T.H. who are being held in closed correctional unit No. 461 of the General Executive Agency of Court Decisions at their request, and discussed the situation with the implementation of their right to be free from torture. Their suggestions and wishes were submitted to the units authorities for decision.

3.1.1. Conditions identified by monitoring visits in the correctional units under the jurisdiction of the General Executive Agency of Court Decision

Correctional units put up signage appropriate to their characteristics called “safety circle” and under the heading of planned activities “prisoners are kept in a certain place for a long time, limiting the ability to drink water, use the toilet, exercise and move” in a “safety circle”. We came to the conclusion that this is inhuman treatment in the form of restriction of a person’s freedom of movement.

According to Article 3, Section 3.1 of the “Regulation for Establishing a security circle for a penitentiary facility service Officers” approved by the joint orders of the Minister of Justice and Internal Affairs and the General Prosecutor No. A/192 and A/81 of 2017 state that “In places where the size of the safety circle can not be ensured, the penetrate facility places signs on the walls and floors prohibiting the movement of prisoners, in accordance with the organization and features of the prison”, section 3.3 states, “Inside and outside the prison room, a line extending 1 meter from the door will indicate the mobility-restricted floor markings.”, section 4.1 of Article 4 of this regulation states “Disciplinary punishment will be imposed on the prisoner if he/she enters the safety circle without permission or violates the prohibition sign.”

It is stated in Article 211 - “The obligation of the prisoner” of the Law on the Enforcement of Court Decision, Section 211.1 of this Article, “Obey and comply with the legislation, subject to adherence to in the penitentiary facility, and regulations made by authorized officials in conformity with legislations, and legal demand imposed by the penitentiary facility and its officers”, and Section 211.1.2 of this Article states “Comply with activities and operations schedule set forth by the penitentiary facility;”.

The Preliminary Findings of the Working Group on Arbitrary Detention from its visit to Mongolia³⁵ stated that, "...Moreover, prisoners are subject to a very strict behavioral regime, which at times is humiliating and dehumanizing... Prisoners are not permitted to step on these red lines Moreover, the practice of prisoners not being permitted to step over the red lines must cease immediately....".

2. It is necessary to have an employee with knowledge of a sign language interpreter to collect primary data on prisoners with hearing and speech impairments, diagnose and determine their psychological status, influence them to relieve stress, as well as provide them with rehabilitation and assistance in places of the detention and in the correctional units under the Court Decision Executive Branch. There has been a case where the complaint of the hearing and speech-impaired citizen N.M., who was detained, was investigated by the National Human Rights Commission.

25.6% of the officers who took part in the questionnaire answered that "it is difficult to explain internal regulations, schedules, disciplinary procedures, rights, and obligations to a person who does not speak Mongolian or written language, or to a person with a disability".

3. Article 5 of the United Nations Universal Declaration of Human Rights declared that: "No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment". Chapter 2, Article 16, Section 13 of the Constitution of Mongolia also declared that "A citizen of Mongolia has the right to be "the right to personal liberty and safety. No person shall be subjected to torture, inhuman, cruel or degrading treatment....".

Paragraph 273.2.1 of Article 273 of the Law on the Enforcement of Court Decision prohibits officers from committing "Illegal attacks and violations of human rights and freedoms", and paragraph 10.3.5 of Article 10 of the Law on the Enforcement of Arrests and Detentions of Suspects and the Defendant prohibits the use of inhuman treatment of detainees.

However, on March 25, 2022, during monitoring carried out by the Metropolitan Prosecutor's Office, there were determined the case that the former deputy head of the closed correctional unit No 461, Colonel E.B. assaulted prisoner M.M. in March 2022, and a criminal case was initiated and investigated.

In the same year, a criminal complaint was submitted to the Investigation Department of the Police Department in Umnogovi Province, involving D.J., the senior bailiff of the Court Decision Executive Branch of the Province, who verbally insulted and beat citizen D.O. and was investigated in accordance with the grounds and procedures of the Law on Criminal Procedure.

4. In the Recommendation of the Commissioner in charge of the Prevention of Torture, it was pointed out the violation of the implementation of the paragraph - "At least 3 security guards will be arranged to perform duties per shift", set out in Article 5.1 of the "Procedures for the Execution and Monitoring of Court Decisions on the Use of Medical Compulsory Measures" approved by the joint order of the Ministers of Justice and Internal Affairs and Health No. A-240 / A-369 of 2017, by means of the execution of security duties by one official.

³⁵ At the invitation of the Government of Mongolia, the UN Working Group on Arbitrary Detention conducted an official visit to Mongolia on October 3-14, 2022.

However, after conducting monitoring visits and submitting recommendations, on November 7, 2022, O.Kh., who was under compulsory treatment at the Forensic Psychiatry Clinic of the National Center for Mental Health, died from suffocation from the bathroom heating line. It is reasonable to conclude that the failure to follow the above procedure limited the ability to stop suicide.

5. The Preliminary Findings of the Working Group on Arbitrary Detention from its visit to Mongolia stated that “However, across all prisons it visited, the Working Group was disturbed over the poor provision of food as it was consistently informed that prisoners would only receive palatable meat with their meals once per week, which would be served with animal intestines during the rest of week. The Working Group invites the Government to address these areas as a matter of priority to ensure compliance in particular with Rule 22 of the Nelson Mandela Rules”.

In the questionnaires received as part of the monitoring visits, the prisoners often indicated insufficient nutrition in food and portions and also mentioned that “meat dishes are provided to us only when the working group, headed by the Commissioner in charge of the Prevention of Torture of the National Commission on Human Rights, conducts their work in our prison”.

6. As mentioned in the questionnaire, there is a variation in the prices of approved goods and products to meet the basic needs of people in detention centers and correctional units, and the shelf life is often expired, and especially there are negative health consequences caused by poor supply, selection, and quality of products required by women.

7. In the 2022 performance plan and training program of the General Executive Agency of Court Decisions and its subordinate classes and units, measures and activities aimed at preventing torture, explaining the human right to be free from torture, inhumane treatment, and discrimination to employees and prisoners are not reflected.

3.1.2. Conditions identified by monitoring visits in the closed correctional unit No. 461, under the jurisdiction of the General Executive Agency of Court Decision

The 352 detainees who participated in the survey came to the following conclusion about the status of the exercise of their rights under the law, and the relevant institutions should take these findings into account in their activities:

1. 18.3 percent of all prisoners who participated in the survey noted in the questionnaire that “the right to receive medical care, visit a specialized hospital and receive treatment is not realized at all”, while the prisoners who participated in individual interviews spoke about the poor supply of basic medicines, such as painkillers.

In their interviews, the administrative officers and correctional unit doctors mentioned that they frequently receive requests from prisoners to visit the hospital, but due to the lack of human resources, it is difficult to provide medical care and services to those requested, at the same time, inmates tend to use drugs without the permission of a doctor.

2. 27.7% of all the prisoners who participated in the question answered that “according to the internal regulations of the detention center, the right to communicate by letter and use stationery is not exercised at all”, and 23.7% “the right to keep documents and records to protect their legal rights is not exercised at all.” and 15.1% “the right to be provided with food with necessary calories, sleeping quarters, mats and blankets

is not implemented at all”, 12% “the right to personal meetings with the chief of the detention center and officials authorized to supervise the activities of the detention center during their work in the unit is not exercised at all.” and 9.1% “the right to apply with statements, complaints, and requests to the correctional institution and staff on issues of internal regulations, the right to exercise, and duties are not realized at all.”. These operational issues need to be taken into account and re-examined.

3. In closed correctional unit No. 461, there is no environment for collecting primary data on persons with hearing and speech impairments, diagnosing and determining their psychological status, influencing them to relieve stress, as well as provide them with rehabilitation and assistance, due to the lack of knowledge of a sign language interpreter.

4. Article 5 of the United Nations Universal Declaration of Human Rights declared that: “No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment”. Chapter 2, Article 16, Section 13 of the Constitution of Mongolia also declared that “A citizen of Mongolia has the right to be “the right to personal liberty and safety. ... No person shall be subjected to torture, inhuman, cruel or degrading treatment....”.

Paragraph 273.2.1 of Article 273 of the Law on the Enforcement of Court Decision prohibits officers from committing “Illegal attacks and violations of human rights and freedoms”, and paragraph 10.3.5 of Article 10 of the Law on the Enforcement of Arrests and Detentions of Suspects and the Defendant prohibits the use of inhuman treatment of detainees.

However, on March 25, 2022, during monitoring carried out by the Metropolitan Prosecutor’s Office, there were determined the case that the former deputy head of the closed correctional unit No 461, Colonel E.B. assaulted prisoner M.M. in March 2022, and a criminal case was initiated and investigated. But this criminal case was dismissed on the grounds that it was not criminal case.

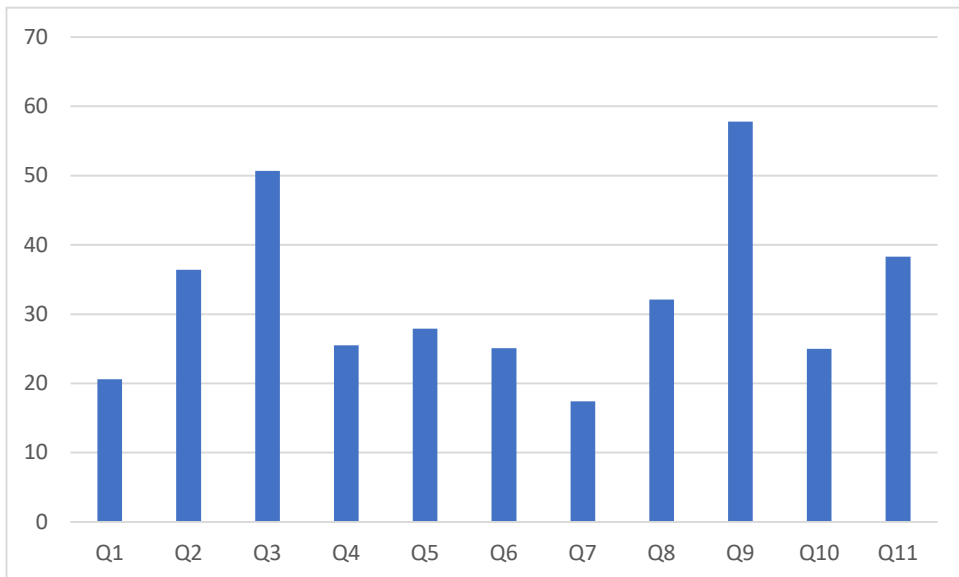
5. As mentioned in the questionnaire, there is a variation in the prices of approved goods and products to meet the basic needs of people in detention centers and correctional units, and the shelf life is often expired, and especially there are negative health consequences caused by poor supply, selection, and quality of products required by women. The inmates also want to exercise their statutory right to receive a visit on weekends.

6. In individual interviews with detainees in the closed correctional unit No 461, many of them said that “... the staff does not have any communication skills at all. They verbally abuse and discriminate against us, such as always calling a person who has never stolen as “hey, thief”. During individual interviews, 2 prisoners belonging to sexual and gender minorities said that “... there are threats from inmates. The officials always scold us because they don’t know or understand anything about us. Female officials use the word “the one” when they talk to each other about us. In general, we are called “the one.”

3.1.3. Monitoring visits to the Arrest Facility under the jurisdiction of the General Executive Agency of Court Decision

1. The 172 persons serving sentences of arrest, concluded the implementation of their rights stipulated in the Law on the Enforcement of Court Decision as follows and the relevant organizations and officials should pay attention to these conclusions in their activities:

- Question 1. 20.6% answered that “the right to receive information about the conditions imprisonment, procedures, rights, obligations, and restriction is not realized at all”
- Question 2. 36.4% “the right to petition and complaint to any organization or official regarding issues related to them through the administration of the detention center is not implemented at all.”
- Question 3. 50.7% answered that “the right to legal assistance is not exercised at all”.
- Question 4. 25.5% said that “the right to receive medical care is not realized at all”.
- Question 5. 27.9% answered that “the right to demand humane treatment from the detention center staff and authorized officials, or to demand their right not to be subjected to cruel, inhuman or degrading treatment”.
- Question 6. 25.1% answered that “the right to protection of personal safety is not realized at all”.
- Question 7. 17.4% answered that “the right to be free from any experiment that may pose a risk to health, whether it is approved by him or not.”
- Question 8. 32.1% answered that “the right to purchase products, food, household necessities, and other priority items in the quantity and amount permitted by the relevant regulations is not implemented at all”.
- Question 9. 57.8% said that “the right to perform religious rituals is not realized at all.”.
- Question 10. 25% said that “the right to inform family members about the location and contact information of the allocated arrest facility is not implemented at all.”.
- Question 11. 38.3% said that they cannot exercise their right to meet with others for up to 1 hour once a week, receive a parcel once, and send a letter once.



1. Section 146.4 of Article 146 of the Law on the Enforcement of Court Decisions states that “The arrestees may go outside for at least 1 hour a day, do physical exercise

and talk on the phone for no more than 5 minutes once a week”, Article 7.9.2 of the “Internal Procedures of the Arrest Facility” approved by Order No. A/246 of 2017, of the Minister of Justice and Internal Affairs, states that “the Chief of the center/facility/ decides to let detainees go outside in extreme weather, e.g. in high heat or cold.”.

However, 89 or 60.1% of the arrestees answered “No” to the question “Are they able to exercise their right to go outside for at least 1 hour a day, do physical exercise, and talk on the phone for no more than 5 minutes once a week?”. This leads to the conclusion that the rights are being violated among them.

2. 46.5% of the attendees in the questionnaire answered “Yes” to the question “Did the employees of the arresting facility treat you inappropriately?”, named the official, and added that this illegal act is repeated regularly. 20.7% answered “Yes” to the question “Are you subjected to inhuman treatment and discrimination in the arresting facility?”, 8,8% answered “Yes” to the question “Are there inhuman treatment and discrimination from other people in the arrest facility?”, which indicates a possible situation in which the employees of the facility violate the rights of the detained persons.

3. In the course of individual interviews, many persons noted that “toilets in the facility are very dirty and uncomfortable, there are no urinals for men, people with scabies, lice, and alcoholics are placed in the same room with other people, and not separately. Due to bad taste and undercooked food, people often get diarrhea, the shop doesn’t return the change for the purchase and sells overpriced mantis left for many days and less than 1 kg bootsog. When visiting a doctor, they do not give medicine, saying that “This is not a hospital”.

4. Among more than 100 detained men on the 3rd floor of the facility, one female employee was supervising. In the individual interview, she said, “... it’s hard for me to be the only female security personnel on duty on this floor alone. When approaching the administration on this issue, they say that it will be transferred to higher authorities, but it has not been resolved in any way. If at least one more male security personnel work with me, the workload will decrease...”.

5. When we talked to the families of the arrestees who came to meetings and rotations during our monitoring visits, they said that they had to wait a long time outside to meet their family members who are being held in the isolation ward, at the same time, the staff explained that they do not allow people who comes to meetings to enter the facility for reasons such as the lack of security checkpoints and the capacity of the meeting rooms.

6. There were answers from several officers who stated “Yes” to the question “Have there been any requests or complaints from the detained person about the violation of the right to be free from torture, inhuman treatment, or discrimination?” and mentioned that they were instructed by the management not to provide explanations on the case, or to hide information about the case.”

7. The Preliminary Findings of the United Nations Working Group on Arbitrary Detention states “Finally, the arrestees are liable to a fixed fee of 3800 tugriks per the day spent in these short-term detention facilities. Some of the arrestees are engaged in maintenance work in the facility and then are not liable for the payment for the days worked.

The Working Group is concerned over the range of conduct, which is penalized by the Law of Infringements as it recalls that the deprivation of liberty should always be a measure of last resort.

The Government should revise the range of acts punishable with arrest to ensure that the principle of personal liberty is upheld in accordance with Article 9 of the Covenant. The arrestees also should not be liable for any fee in connection with their detention in such short-term detention facilities. Finally, recalling that even when detention is of short-term, the safeguards against arbitrary detention are applicable, the Working Group urges effective implementation of due process guarantees and most notably the right to legal assistance.

3.1.4. The Recommendation of the Commissioner in charge of the Prevention or Torture

The recommendation of the Commissioner in charge of the Prevention of Torture, consisting of 11 points each, was submitted to the head of the General Executive Agency of Court Decision, the head of the closed correctional unit No 461 under the General Executive Agency of Court Decision, and the head of the Arrest Facility under the General Executive Agency of Court Decision. In accordance with the Law on the National Human Rights Commission, Section 35.2 and 35.3 of Article 35, appropriate measures should be taken and a written response submitted within 30 days following the Recommendations.

Head of the General Executive Agency of Court Decision by official letter No. 01/226 dated January 30, 2023; Head of the closed unit No 461 under the General Executive Agency of Court Decision It was submitted by the official letter No. 1/225 dated January 30, 2023; and Head of the Arrest Facility under the General Executive Agency of Court Decision by official letter No. 01/33 dated January 30, 2023, officially reported on the work done and ongoing within the framework of the Recommendations of the Commissioner in charge of the Prevention of Torture.

3.2. Monitoring visits conducted at the Police Agencies

During the reporting period, the National Preventive Mechanism conducted monitoring visits to a total of 17 locations, including the sobering and detention center under the Metropolitan Police Department, police stations of Gobi-Sumber, Umnugobi, Dundgobi, Bayankhongor, Uvurkhangai, Gobi-Altai, Arkhangai, Zavkhan Provinces, and Tosontsengel Soum.

In addition, during the citizens' demonstration that started on December 4, 2022, the Commissioner in charge of the Prevention of Torture met with the Deputy Chief of the National Police Agency³⁶ and urged them to treat the fundamental rights and freedoms of people with the utmost respect and ensure that no one is subjected to arbitrary arrest, detention, torture, or inhuman treatment.³⁷

The Commissioner made a recommendation to optimally organize the duty shifts of the officers in case the demonstration continues for extended days and pay attention to the conditions for the performance of their duties, immediately provide warm clothes and other necessary things, properly manage working hours and off-time in order to protect the interests of its employees. The Commissioner personally received a complaint from the protester N.B. on the non-observance of human rights during the demonstration and forwarded it to the relevant authorities.

³⁶ Tselmen. Ya. - The Commissioner in charge of the Prevention of Torture met with the Deputy Head of the National Police Agency during the citizens' demonstration that started on December 4, 2022, and consulted on fulfilling its duty to ensure the rights of citizens and officials.

³⁷ <https://www.facebook.com/nhrm/>

3.2.1 The current condition of the Police Sobering and Detention Centers

The following legal acts regulate the activities of the Public Order Protection and Public Security Office, sobering and detention centers of the Central and Local Police Agencies and take alcohol abusers under police control and provide them forced rehabilitation services in order to protect their life and health, prevent them from committing crimes and offences.

- “Law on the Police Service”
- “Law on compulsory rehabilitation of persons who have consumed excessive alcohol”,
- “Regulations and Procedures of Detention Centers” approved by Order No. A/192 of 2020 of the Minister of Justice and Internal Affairs”,
- Code of Police Agency operational procedure - 622, 629 “Compulsory rehabilitation procedure”,
- “Procedure for the Implementation of measures to restrict rights” approved by the joint order of the Prosecutor General and the Minister of Justice and Internal Affairs No. A/81 A/232 of 2022

There are 37 sobering and detention centers that were put into use in the years 1964-2017 in the police organization nationwide, 18 of which are operating in police stations and department buildings, 10 are operating in basements, and there are 19 sobering and detention centers with separate buildings.³⁸

There are 9 sobering and detention centers in the Capital, 21 in the provinces, and 7 in Soum.³⁹

As of 2022, 58,400 people were detained and rehabilitated in 416 rehabilitation and detention rooms, of which 36 were women and 20 were minor citizens.

Over the past 4 years, the police department has received 10,198 calls about people who were unconscious or who abused alcohol, of which 2,986 citizens were transferred to the Ambulance, and 509 of them were in intensive care and underwent surgery.

However, in the last 4 years, 17 people have died at sobering centers, due to restrictions on their rights to the protection of health and to obtain medical care as stipulated in the Constitution of Mongolia.

In these cases, the ambulance doctor/103/ transferred to a sobering center without establishing whether the person had an injury that required emergency medical attention, had a serious or infectious disease, or was poisoned by excessive consumption of alcohol.

In some cases, due to the delay in the arrival of the ambulance doctor, the processing of information about the call is delayed, and due to the late response to the next call about a crime or violation of a police officer causes a risk of harm to human life, health, and property.

In addition, since detoxification treatments are not free, the district hospital refuses to admit the person who has abused alcohol, is insolvent, undocumented, or uninsured, and requires the presence of the patient’s family and guardians. That is why the doctors of the City Ambulance /103/ avoid receiving these citizens, according to the information of the Department of Public Order and Public Safety.

³⁸ From information provided to the National Preventive Mechanism of Torture by the Public Order Protection and Public Security Office under the National Police Agency and the Metropolitan Police Agency.

³⁹ From information provided by the Public Order Protection and Public Security Office.

Police departments, sobering, and detention centers face many problems and difficulties:

- Since some sobering and detention centers do not meet the relevant standards, they often receive standard requirements and recommendations from the National Human Rights Commission and the prosecutor's office. Therefore, it is necessary to have a facility that meets the standard requirements;

- The cleaning service is grossly inadequate because there are no maid vacancies. Therefore, the position of a servant must be approved;

- lack of budget for purchasing medicines that meet the standards and requirements;

- Creating conditions for stable employment of civil servants;

- Improve the video surveillance system, install a ventilation system, and improve the heating system at some facilities;

- provide human resources in accordance with the approved number of doctors.

3.2.2. Reception, inquiry, and investigation of statements and information about crimes and offenses by the police station

The Preliminary Findings of the United Nations Working Group on Arbitrary Detention states "The Working Group received consistent testimony that it is customary for the police station, initially call people to the police stations as witnesses and they are not allowed to leave.

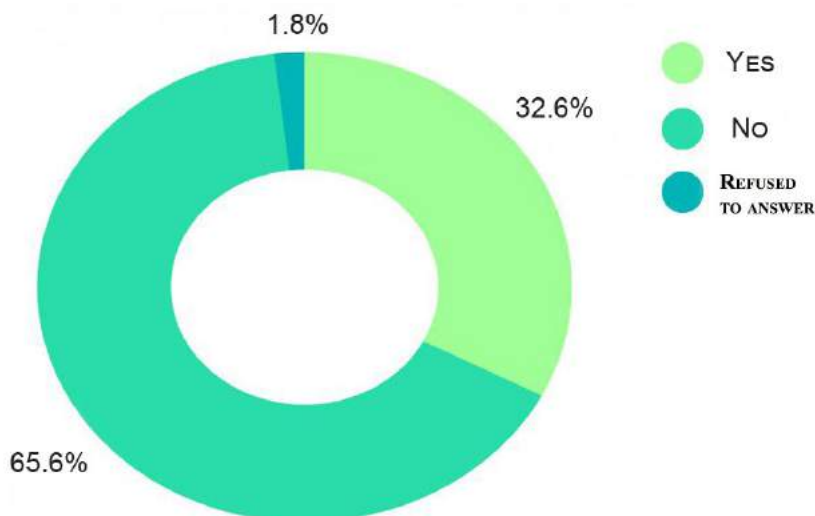
Many reported having spent the whole day in police stations in such circumstances. This time however is not officially counted as part of the permitted 6 hours of police detention nor the 48-hour period. People are summoned to attend interviews with the police as witnesses, despite the fact that it was apparent when they were questioned at the police station that they were considered to be suspects.

This may deprive suspects of important protections including the opportunity to consult with a lawyer and the right to be cautioned against self-incrimination. Once the person is officially in police custody for the permitted 6 hours, these 6 hours customarily are not counted as part of the 48 hours period. The Working Group consistently observed that the period of police custody in vast majority of cases significantly exceeded the permitted maximum period of 48 hours."

During the monitoring visit held in the closed correctional unit No 461 under the General Executive Agency of Court Decision, 331 detainees were asked questions about whether they were subjected to torture or ill-treatment by detectives, prosecutors, or other people. 108 detainees or 33% of respondents, answered they were "affected" by the act, 65% answered "not affected", while 6 people did not answer.

There is a case - On July 23, 2022, a police officer arrived at the National Center for the Elderly with a complaint and information about a crime in which the citizen, Ya.S., was injured during an argument with others.

HAS THERE BEEN TORTURE, INHUMANE TREATMENT, OR DISCRIMINATION BY DETECTIVES, PROSECUTORS, OR OTHERS?



During our monitoring visits, it was revealed that the complaint about this crime was not registered at all and no investigation was carried out, which was subsequently confirmed by official letters from the prosecutor and the police office, sent following the results of the monitoring visit. In other words, the fundamental rights and freedom of that citizen, provided in Article 16.14 of the Constitution of Mongolia, “the right to appeal to the court to protect his/her rights if he/she considers that the rights or freedoms as stated by the Mongolian law or an international treaty have been violated; to be compensated for the damage illegally caused by others;”.

The Preliminary Findings of the United Nations Working Group on Arbitrary Detention state: *Further to the lack of dedicated infringement courts, the suspects in infringement cases appear before regular criminal courts. Since criminal matters take precedence, individuals usually have to wait, often for hours, until their hearing can proceed.*

It is not uncommon that people would be called to the court in the morning and would not have their hearing until late afternoons without any provision for space where to wait in. Moreover, the hearings themselves usually are exceptionally short, lasting 15-20 minutes. While individuals are entitled to legal representation, this is not free of charge and so the hearings are usually conducted without a lawyer.

An appeal is possible within 14 days of the decision of the court of first instance, but in practice this is rare given the short duration of the sentences imposed and arrestees are usually taken to the short-term detention facility immediately after the sentence of arrest is imposed by the court of first instance.”

3.2.3. The Recommendation of the Commissioner in charge of the Prevention or Torture

Based on the condition determined by the monitoring visits, the Recommendation of the Commissioner in charge of the Prevention of Torture was submitted to the head of the Police Office of the Tuv Province by letter No. 08/01 dated October 13, 2022.

The Recommendation dated February 28, 2023, No. 08/01 of the Commissioner in charge of the Prevention of Torture was transmitted to the Head of the National Police Agency, which refers to the protection and ensuring the human right to be free from torture, inhumane treatment, and discrimination, in particular, taking measures to prevent involvement police officers to the crimes of “Illegal Arrest” under Article 13.9, “Discrimination” under Article 14.1, “Torture” under Article 21.12 of the Criminal Code at the level of the Police Agency in 2023 and ensuring its implementation.

3.3. The National Center for the Elderly

3.3.1. Centers operating in the field of specialized care for the elderly and disabled citizens

In total, there are 12 care centers in Mongolia in the field of specialized care for the elderly and disabled citizens, 8 of which are funded by the state and local budgets, 2 are private care centers that are partially funded, and 2 are funded by religious organizations.

Of these, the National Center for the Elderly in Batsumber Soum, Tuv Province, and the Care Centers under the Agency for Labor Welfare Service in Uvs, Dornod, and Dornogobi provinces are financed from the state budget, while Care Centers under the Agency for Labor Welfare Service in Bayankhongor, Bayan-Ulgii, Khovd, Khuvsgul provinces are from the local budget.

“Batgerelt-Ireeduy” NGO care center for disabled people, located at the address: Bayantsagaan 6-10, 8th khoroo, Songinokhairkhan district, and “Achlalt huuхduud” Care Center for disabled people, located at the address: Hotol 1-5, 28th khoroo, Songinokhairkhan district, and the “MS Mother Teresa” elderly Care Center, located at Belkh 33-2-32 and 33 16th horoo, Sukh-Baatar district are financed by religious organizations.

As of December 2021, there were 386 people in care centers for the elderly and disabled across the country, and the sector employed more than 250 employees at the time.

According to the Order No. A/188 of the Minister of Labor and Social Protection, dated November 29, 2021, the list of food, clothing, textiles, sanitary ware, medicines, and injections that are necessary for care homes, cost norms, and standards for clients receiving specialized care services was approved with a 42 percent increase in line with the consumer price index and came into force from 2022.

As part of the joint order No. A/03/03 of 2018 of the Minister of Finance and the Minister of Labor and Social Protection, approved in accordance with Article 7.5 of the amended Law on Elderly, 2017, “The Government will maintain and provide financial support to care centers for elderly funded by the private sector, and the funding arrangements will be jointly approved by the government members in charge of the Finance and Social Protection”, the cost of care services for elderly of private care homes and centers is being partially funded in accordance with the norm.

3.3.2. Monitoring visits to the National Center for the Elderly

The National Center for the Elderly performs its functions in accordance with relevant regulations and standards within the following laws and legal framework:

- the Law on Social Welfare,
- “Procedures for reception, transfer, and discharge of care clients in specialized

care centers” approved by order of the Minister of Population Development and Social Protection No. A / 97 of 2013,

- “Procedures for the formation, spending, and control of the budget of the care center”,

- “Procedures for accreditation of various care centers, the granting of rights to conduct work and services”,

- “Procedures for granting pensions to elderly and disabled citizens aged 18 years and older who are attended in various care services”, approved by Order No. A/156, of the Minister of Population Development and Social Protection, and

- Standard “Common Requirements for Elderly Care Services MNS 5823:2016”, approved by the Resolution No. 51 of 2016 of the National Council for Standardization.

3.3.2.1. Features of the Center’s operations

Monitoring visits within the framework of the National Preventive Mechanism of Torture were held at the Center on August 25 and 26, 2022.

The National Center for the Elderly is the first national care center, established in 1925 under the name “Center for the Support of the Orphans and the Poor”. Since 1925, the Center has been operating in “Niislel Khuree” for 32 years, and in 1957 it moved to the Tsenkher Mandal soum of the Khentii province, and in 1967, to the Batsumber soum, Tuv province, and functioned under the name “State care facility” until 2013.

According to Resolution No. 55 of the Government dated August 24, 2016, it became a “National Center for the Elderly” under the General Agency for Labor Welfare Services, and a new additional block with a capacity of 100 clients and a 150-bed rest and rehabilitation sanatorium run into operation. Currently, the center provides specialized care services to 157 elderly and disabled citizens in two buildings with 118 employees.

According to Order No. A/107 dated May 22, 2022, of the Minister of Labor and Social Protection on the “Reconfirmation of the organizational structure and rules of the National Center for the Elderly”, the Nursing Center of the organization should perform its functions with 63 employees, but in fact, it operates with 45 people.

Table 1. Age, gender, and type of disability of the clients of the National Center for the Elderly

№	Indicator	Amount	Percent
Gender			
1	Male	96	61.1
2	Female	61	38.8
Whether have reached retirement age			
3	Have reached	125	79.6
4	Haven` t reached	27	17.1
Type of disability			
5	Severe disability /Under constant care/	44	28
6	Have a mental disorder	138 /in duplicate/	87.8
7	Mobility impairment /lower limb/	77 /in duplicate/	49
8	Visually impaired	12	7.6
9	Hearing impaired	5	3.1
10	Speech impairment	22	14

Results of questionnaires and interviews: A survey and Interviews were conducted with 19 elderly and disabled people of the National Center for the Elderly who were able to participate, 8 doctors and medical specialists working in the center, and 25 employees of the department of the administration and social participation, department of the support services and supply, and the Nursing Center.

Table 2. Duration of residence in the center of the elderly and disabled people who took part in the survey

№	length of stay in the center	Answer	Percent
1	1-6 months	2	10.5
2	7-12 months	2	10.5
3	2-4 years	2	10.5
4	4-8 years	4	21
5	Over 8 years	6	31.5
Total		16	84

Questionnaires were collected and personal interviews were conducted on the basis of questionnaires with 22 elderly and disabled citizens who are in the service of the National Center for the Elderly, 17 doctors and medical specialists, and 19 employees of the center.

3.3.2.2. Conditions identified by monitoring visits in the National Center for the Elderly

1. On the basis of the National Center for the Elderly, care is provided for citizens with disabilities and mental disorders that are not covered by Article 3 of the Law on the Elderly.

According to Article 19 of the Law on Social Welfare, specialized care services are of the following types.

- services for the care of the elderly;
- services for the care of citizens with disabilities;
- services for the care of children under 18 years of age who are in difficult conditions;
- services for the care of triplets and more.

Section 19.3 of Article 19 of the Law on Social Welfare stipulates that care services for citizens with disabilities and children under the age of 18 who are in a difficult life situation can be classified and diversified in detail, taking into account the unique needs, age, and gender of the client, therefore, it is appropriate to investigate the needs and requirements for diversification of services for the care of the elderly.

1.1. The Law on Social Welfare, uses the term “care clients” as specified in Section 19.7 of Article 19 “Procedures for reception, transfer, and discharge of care clients in specialized care centers shall be approved by the government minister responsible for social protection.”, and in Section 26.4 of Article 26, “In the event that a citizen, enterprise or organization specified in Article 26.2 of this Law causes harm to the interests of care client, a decision is made to terminate the activities.”.

Elderly people react sensitively to the designation of “care clients” in the Law on the Social Welfare and administrative acts of norms and normative, and as a result, due

to negative societal attitudes, they isolate themselves from family members, relatives, friends, and work colleagues who refuse to be in relationships. In particular, during the monitoring visits, it was revealed that they do not express their own opinions in the press and the media, exercising their right guaranteed by the Constitution of Mongolia to freely express their voices cherishing their dignity.

However, the Law on Social Welfare states the following: in Article 19, Section 19.9, “It can be provided for a fee at the request of a citizen, and the amount of the service is determined by negotiation with the customer.”, in Section 26.4 of Article 26, “In the event that a citizen, enterprise, or organization causes harm to the interests of care client, and customer a decision is made to terminate the activities.”, in the section “Rights of a social worker”, paragraph 28.9.4 of Article 28 “Refuse to perform actions that are contrary to professional ethics, rights, obligations and a customer;”.

Section 19.8 of Article 19 of the Law on Social Protection states that “70 percent of the assigned pension to pensioners of social and social insurance and disabled people aged 18 years and older participating in specialized care services shall be conferred to themselves, and 30 percent - to the organization providing services for care in a manner approved by the government minister responsible for social protection.”.

Citizens involved in specialized care services are defined as “care clients” and “customers”, but the term “customers” is not used in Section 19.7 of Article 19, of the Law on Social Welfare.

Elderly people and employees of the center who took part in the questionnaire came to the conclusion that this is an “inhuman and discriminatory regulation”. They proposed that the term “care clients” be removed from the Law on Social Welfare.

1.2. Section 19.4 of Article 19 of the Law on Social Welfare states that “the governor of the province, capital, and district makes a decision on the inclusion of children and citizens in specialized care services specified in Sections 19.2.1-19.2.4 of this law, based on the proposal of social welfare service organizations of the province, capital, and district.”.

It is important to pay attention to the fact that the elderly people expressed their opinion that “the decision to include a citizen in specialized care services should be taken independently by the province, capital, and district social welfare service organizations” and is appropriate to take research on whether the law should be amended and repealed.

2. In the official letter No. 3-2/93 dated September 16, 2022, of the head of the Department of Control and Registration of administrative normative act of the Ministry of Justice and Internal Affairs it is noted that “The Order No. A/97, 2013 of the Minister of Population Development and Social Protection, “Procedures for reception, transfer, and discharge of care clients in specialized care centers” is not registered in the state unified registration of administrative normative act”.

Section 67.2 of Article 67 of the Law on General Administrative Procedure establishes that “Administrative normative acts come into force only after registration in the unified state registration and publication in the “Compilation of administrative normative acts”, and in Section 67.3 “in the case of violation of the requirements

specified in section 67.2 of this Law, an administrative normative act has no legal force and does not impose duties and responsibilities on citizens and legal entities that do not comply with them”.

Therefore, measures must be taken:

Within the framework of the concept of the Law on Social Welfare, fulfill the requirements stipulated in Article 67 of the Law by re-approving the “Procedures for reception, transfer, and discharge of care clients in specialized care centers”.

When revising the draft regulations, it is necessary to take appropriate measures to align the regulation with the following contents into a human rights-based approach, taking into account relevant studies and current social needs and requirements:

2.1. Mention the types of care provided by the Law on Social Welfare in the “Procedures for reception, transfer, and discharge of care clients in specialized care centers” of 2013;

2.2. 14 types of documents and information are required from citizens who are single without children to take care of them, unable to live independently, or citizens whose children are unable to take care of them due to old age or disability, which limits the rights of citizens to receive the services of the center. Thus, taking into account this situation, reflect in the Procedure as “in certain cases, a social worker is obliged to form documents”;

2.3. Updating the confidentiality and storage of personal information of the “Customer” in accordance with the concept of the Law on Personal Data Protection.

3. Immediately take managerial and organizational measures aimed at employing geriatricians, psychologists, rehabilitation doctors, physiotherapists, occupational therapists, traditional medicine doctors, psychologists, physicians, general professional nurses, pharmacists, and medical equipment specialists in accordance with the “Common requirements for care services for the elderly” /MNS 5823:2016/, for the Department of Medical Assistance and Services of the National Center for the Elderly.

4. Based on the National Center for the Elderly, create conditions for the employment of psychiatrists and speech therapists in connection with the provision of care services for the care of citizens with disabilities and mental disorders that are not subject to Article 3 of the Law on the Elderly;

5. Research and solve the issue of creating a position of a psychologist to work with doctors, specialists, and staff of the center, provide them with psychological assistance and services, or hire a qualified psychologist at regular intervals.

6. Improve the environment for the safety of people with disabilities in accordance with the standards: “Space and environment considering the requirements of people with disabilities in civil construction planning. Basic requirements” /MNS 6055:2009/, Pedestrian and site planning. Technical requirements /MNS 6808:2019/;

7. During the monitoring visits, it was concluded that the road between Batsumber soum of the Tuv Province and the National Center for the Elderly still causes difficulties in transporting the seriously ill and disabled elderly. Therefore, the presentation defining the needs and requirements for the repair and improvement of the road must be submitted to the relevant central government administrative organization for a decision;

8. According to the Law on Disability Rights, it was improved the environment for the safety of people with disabilities under the standards:

“Make an environment considering the needs, suitable civil construction planning, improve the quality of services, equipment, materials, tools, software, environment, and services necessary for the equal enjoyment of fundamental human rights and freedom of people with disabilities. For example: settling the budget required for training the staff of the center and hiring sign language interpreters, installing audio equipment for the visually impaired, and information equipment for the hearing impaired people in the elevator.

9. It is commendable that in recent years, works have been carried out to improve living conditions and the environment by expanding the building of the center and commissioning a new building of sanatorium.

However, during the monitoring visits, it was established that the violations contained in the 5th section of the “Demands” submitted by the Commissioner of the National Human Rights Commission in the official letter No. 5/15 dated March 03, 2021, have not been stopped and the right to be free from inhuman treatment and discrimination continues to be violated.

The participants of the questionnaire and interviews noted that this is due to the leadership of the center’s management, the organization of internal work, the lack of control, as well as the ineffectiveness of training and promotion.

For example, nun T.S., who performed a transaction with an elderly person’s bank card without the permission of the elderly person, was dismissed from her job in accordance with Article 131, paragraph 131.3 of the Law on Labor of 1999 by order of the head of the National Center for the Elderly based on “repeatedly violating the rules and committing serious disciplinary offenses.”.

3.3.3.1. The Recommendation of the Commissioner in charge of the Prevention or Torture

In order to prevent further inhuman treatment and discrimination based on the situation determined by the monitoring visits carried out at the National Center for the Elderly, the recommendation of the Commissioner in charge of the Prevention of Torture was sent to the Deputy Minister of Labor and Social Protection by official letter No. 08/04 dated October 13, 2022. , by official letter No. 08/05 to the Minister of Health, by official letter No. 08/07 to the Minister of Justice and Internal Affairs, by official letter No. 08/06 to the Minister of Road and Transport Development, by official letter No. 08/03 to the head of the National Center for the Elderly, respectively.

The Implementation of the recommendations of the Commissioner in charge of the Prevention of Torture sent by the Minister of Labor and Social Protection in letter No. 02/3059 dated November 23, 2022, and by the Minister of Justice and Internal Affairs in letter No. 1/5759 dated November 11, 2022, by the Deputy Minister of Road and Transport Development in official letter No. 02/5305 dated November 16, 2022, by the State Secretary of the Ministry of Health in official letter No. 2/5585 dated December 14, 2022, by the head of the National Center for Elderly in official letter No. 238 dated November 15, 2022.

3.3.3.2. Implementation of recommendations

On December 22, 2022, on the basis of Article 35, Section 35.2 and Article 34, Section 34.1 of the Law on the National Human Rights Commission of Mongolia, employees of the Department for the Prevention of Torture carried out a visit to ensure the implementation of the recommendations of the Commissioner in charge for the Prevention of Torture and evaluate the measures at the National Center for the Elderly.

3.4. Monitoring visits to the National Center for Mental Health

“Demand” No. 3/46 dated December 30, 2021, of the Commissioner of the National Human Rights Commission, was submitted to the head of the National Center for Mental Health, and a work plan and performance report to be carried out by the requirement was prepared and a response was submitted.⁴⁰

In August 2022, a monitoring visit was carried out to the Clinic of Forensic Psychiatry and the care ward of the National Mental Health Center, located on 9th Street in the Bayanzurkh district.

3.4.1. Operational features of the Forensic Psychiatry Clinic

The Forensic Psychiatry Clinic of the National Center for Mental Health⁴¹ is a psychiatric hospital that provides medical coercive treatment of persons who have committed a crime under a special class of the Criminal Code due to mental illness, as well as treatment of patients with chronic dementia and acute dementia. It is a special unit that requires knowledge, skills, sharp vigilance, continuous supervision, and guarding.

The Forensic Psychiatry Clinic of the National Center for Mental Health is a psychiatric hospital that provides compulsory treatment as part of coercive measures of medical quality based on a court order, those who have committed a crime under a special class of the Criminal Code due to mental illness, as well as treatment of patients with chronic dementia with progressive dementia and acute dementia. It is a special unit that requires knowledge, skills, sharp vigilance, continuous supervision, and guarding.

When the new expansion complex of the National Center for Mental Health was commissioned in 2014, the structure and organization of the wards changed, the space and area increased, the number of doctors, and workers increased, and the treatment environment improved. But at the same time, it was discovered that male, female, and adolescent patients who are receiving forced medical treatment due to violations are placed in the same floor and in a room without a separation door.

As of August 24, 2022, there are 24 men and 14 women, a total of 38 people, who are undergoing compulsory medical treatment based on the judgment of the court:

- 18 who are under criminal coercive measures within the period set by the court,
- the court did not specify the period of coercive measures of criminal nature 13,
- 7 who have passed the period of coercive measures of criminal nature.

⁴⁰ Official letter No. 1/102 dated January 31, 2022, by the head of the National Center for Mental Health.

⁴¹ According to the report of the clinic, it has 16 employees, 1 chief physician, 3 attending physicians, 1 head nurse, 5 nurses, 5 assistant nurses, and 1 secretary.

It was mentioned in the patient registry study⁴² that there are 11 patients whose family members have applied for relinquishment of guardianship and assistants, and 2 patients who have no family members or relatives.

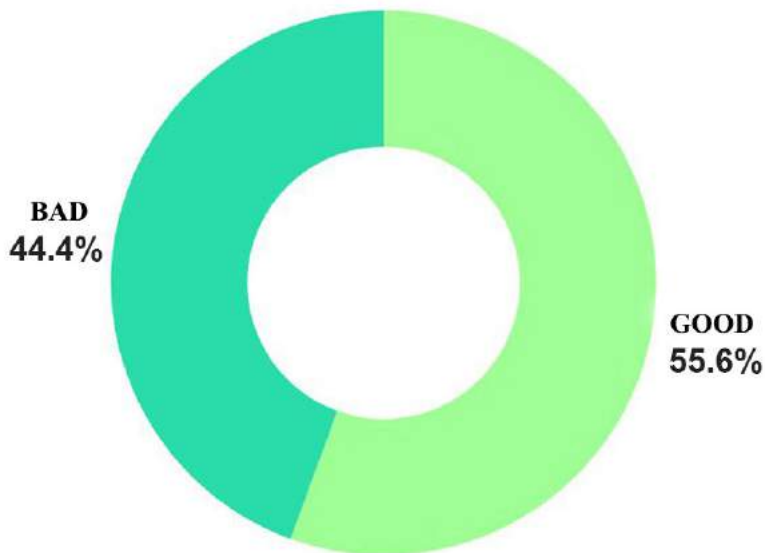
Since May 24, 2021, the security guards of the Detention Center under the General Executive Agency of Court Decision have been on duty in the clinic in 3 shifts. In one shift, 2 security guards work for 24/48 hours, and on weekdays 1 senior security inspector for 9 hours (08:30-17:30).

The rooms are completely covered with cameras. A total of 36 camera screens are used to continuously monitor daily activities and ensure the safety of patients.

3.4.1. Features of Care Ward

The care wards 1 and 2 of the National Center for Mental Health provide legal treatment to citizens with mental disorders and problems on their own request and on a voluntary basis and provide permanent and temporary residence conditions.

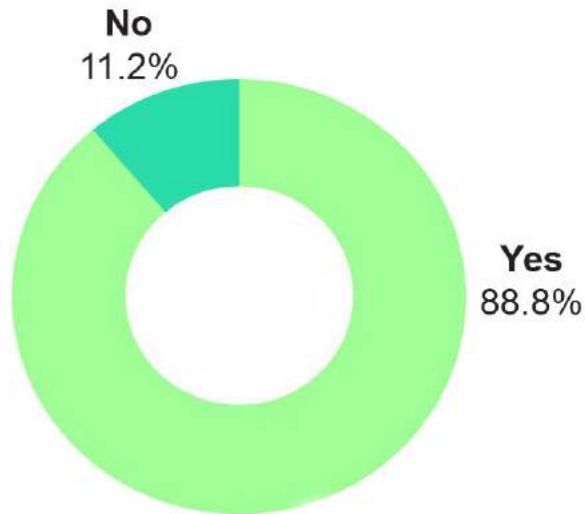
WHAT IS THE CONDITION OF THIS ORGANIZATION?



To the question “What are the conditions of this organization?” 55.5 percent or 5 of the 13 patients of the center’s wards 1 and 2, who participated in the questionnaire, answered “good” and 44.4 percent or 4 answered “average”.

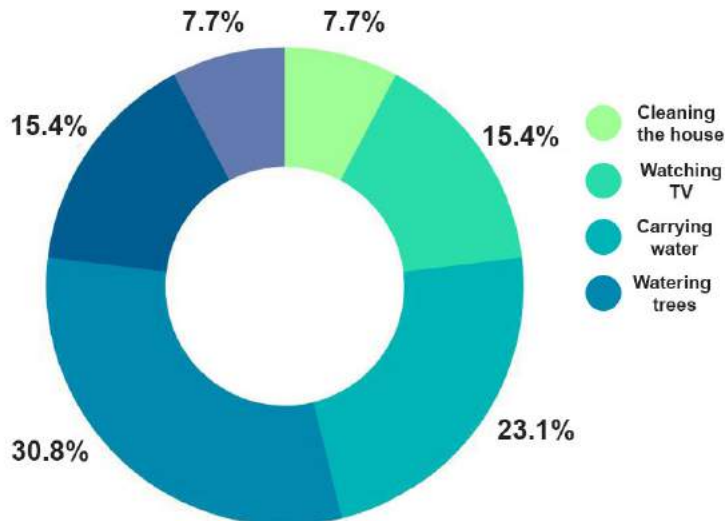
⁴² The personal files of 38 patients treated at the clinic are compiled and maintained in accordance with the established procedure.

HAVE YOU BEEN INTRODUCED TO THE INTERNAL PROCEDURES OF THIS ORGANIZATION?



To the question “Have you been introduced to the internal procedures of this organization?” 8 of the 9 patients answered “yes” and 1 answered “no”, which may be related to their psychological characteristics, and it is found that the organization follows the rules.

WHAT DO YOU MOSTLY DO EVERY DAY?



To the question “What do you mostly do every day?” 1 patient answered “cleaning the house”, 2 - “watching TV”, 3 - “carrying water”, 4 - “watering the tree”, and 1 patient of compulsory treatment in the forensic psychiatric clinic answered that watches TV, and 2 answered does exercise. /chart 3/

3.4.3. Conditions identified by monitoring visits

1. The Criminal Code of 2015 defines criminal liability as “penalty or compulsory measures”. Consequently, in the type of compulsory measures, medical-quality compulsory measures are legalized and stated in the Law “compulsory medical measures are applied to an accused and a defendant who committed a crime in a mental state that is not capable of being responsible for the criminal offense or who has contracted such mental illness after committing the crime.

If the accused, committed a crime when he/she was incapable to bear responsibility for the criminal offenses and the mental status of the accused currently does not pose a danger to himself/herself or to others, medical compulsory measures are not applied, but in the case that he/she becomes incapable to be responsible for criminal offenses after committing a crime, the court applies to him/her medical compulsory measures and sentence after recovery.

2 types of treatment were prescribed with the use of compulsory medical measures in Chapter 7, Article 4, Section 9 of the 2015 Criminal Code “Court may impose mandatory actions of medical nature to take medical treatment against psychological rehabilitation and addiction taking in account personality of a person committed a crime and circumstances of committing of a crime.”

Chapter 7, Article 4, Section 7 of the Criminal Code states “ Court shall determine types, regime, and term of mandatory actions of medical nature taking into account a conclusion of an expert.” However, there are no provisions in the effective Criminal Code, the Law on Criminal Procedure, the Law on the Enforcement of Court Decisions, and Administrative Normative acts establishing or defining the type and regime of compulsory medical measures. Also, during the monitoring visit, it was found that questions are not asked in the decision appointed by the detective or prosecutor, are not included in the expert’s conclusion, and are not used in court decisions.

Chapter 19, Article 2, Section 4, Section 5 of the Law on Criminal Procedure states “If the accused should be hospitalized in a medical institution, observed under psychiatric surveillance to have an expert opinion issued, the court shall decide to transfer the accused to a medical institution to the observation of doctor based on the request of the expert witness.”, “The accused person’s time spent in a medical institution under the psychiatrist’s observation as stated in section 4, of this Article shall be calculated as duration of pre-trial detention.”

Within the framework of this legal arrangement, the accused must be under the supervision of a doctor at the Forensic Psychiatry Clinic of the National Center for Mental Health, with patients of compulsory measures. However, the action was not included in the “Procedures for the Execution and Monitoring of Court Decisions on the Use of Medical Compulsory Measures” approved by the joint order of the Minister of Justice and Internal Affairs and Health No. A-240 / A-369 of 2017.

2. According to the decision of the Court of First Instance for Criminal Cases of Songinokharkhan District No. 2022/3Sh/563 dated March 10, 2022, B.B. was charged with the violation of Article 6.26, Section 1 of the Law on Infringement /Sexual Harassment/ and imposed on compulsory measures of medical nature for 3 months and released without imposing the penalty specified in Article 6.26, Clause 1 of the special class of the law according to the 2.3 of the general section of the Law on Infringement.

In accordance with Article 3, paragraph 3 of the Contravention Law, “a person who is unable to bear legal responsibility for an offense at the time of an incident may be subjected to statutory compulsory medical measures without punishment.” B.B. served a compulsory measure of medical nature assigned to him at the forensic psychiatric clinic.

The legal principle of the Criminal Code “The application of the Criminal Code of the Russian Federation by analogy is prohibited.” was violated in this court order by applying to the person who committed the violation, a compulsory measure of medical nature, which is a type of criminal liability.

Article 190, Section 1 of the Law on the Enforcement of Court Decision states “If the court rules to impose compulsory measures of medical nature, the court shall specify the type of medical institution to enforce the measures.”

In addition, clause 1.2 of the “Procedures for the Execution and Monitoring of Court Decisions on the Use of Medical Compulsory Measures” approved by the joint order of the Ministers of Justice and Internal Affairs and Health No. A-240 / A-369 of 2017 regulated that “Based on the implementation and monitoring of compulsory measures of medical nature is a valid court decision and judgment”.

The joint treatment of patients subjected to compulsory medical measures is a violation of the Criminal Code and the Law on Infringement, the same as the Administrative normative acts.

3. Chapter 7, Article 4, Sections 2 and 3 of the Criminal Code of 2015, states that “If a person, who took mandatory actions of medical nature due to incapability to bear legal responsibility for a crime at the moment of committing of a crime, has recovered from incapability, a court shall render a decision to discontinue maintaining of the mandatory actions.”, “If the psychological condition of a person, who was incapable to face legal responsibility for a crime at the moment of committing a crime has threatened no danger to himself and others, needs to be transferred to an appropriate medical organization or a guardian without taking mandatory actions of medical nature.”

In the event of the expiration of the period for the application of compulsory measures specified in the court decision taken about patients, or in the event of termination of the application of compulsory measures of medical nature in relation to a patient to whom measures were applied, without setting a period in accordance with the Criminal Code of 2002, if a person has no family members, relatives, or guardians, or if they refuse to accept him/her, he/she continues to undergo compulsory treatment in the Forensic Psychiatric Clinic. Consequently, it was found that clause 4.8 of the “Procedures for the Execution and Monitoring of Court Decisions on the Use of Medical Compulsory Measures” which states “After the completion of the forced treatment of homeless and unaccompanied patients, the National Center for Mental Health will submit a request to the relevant authorities and resolve the issue.” has not been implemented.

The emerging situation of life-long medical measures without a court decision with patients whose period of application of compulsory medical measures has expired violates the basic human rights and freedom under the Constitution of Mongolia, which is specified in Article 16, Section 13 as “the right to personal liberty and safety. No one shall not be searched, arrested, detained, persecuted or restricted of liberty except following procedures and grounds determined by law.’

4. Section 67.2 of Article 67 of the General Administrative Law states “An administrative normative act shall be observed after it is only registered with state unified registration and published on the “Compilation of administrative normative acts”.

5. In the official letter No. 3-2/93 dated September 16, 2022, of the head of the Department of Control and Registration of administrative normative act of the Ministry of Justice and Internal Affairs it is noted that “The Order No. A/97, 2013 of the Minister of Population Development and Social Protection, “Procedures for reception, transfer, and discharge of care clients in specialized care centers” is not registered in the state unified registration of administrative normative act”.

6. “Demand” of the Commissioner of the National Human Rights Commission No. 3/46 dated December 30, 2021, on “Establishing a procedure for monitoring the spending of social welfare allowances for care client” and “Stop placing two people in one bed who is having medical service” delivered to the head of the National Center of Mental Health has not been fulfilled.

7. Patients male, female, and adolescents, to whom by a court decision, compulsory measures of medical nature applied in the Forensic Psychiatric Clinic, are placed in the same wing, in a room without a separating door, which can endanger the life and health of medical personnel, patients with a mental disorder, and doctor.

8. Group and individual interviews with doctors and medical staff revealed the following situations:

- heavy workload; many hours of work with excessive load; performing duties other than those specified in the job description;
- a social worker is required; understaffing of security personnel;
- subjected to some sort of work-related assault, harm to health, verbal abuse from patients;
- services for rehabilitation and psychological assistance to doctors and medical personnel are not provided by the organization;
- forced patients have a risk of harming themselves and others by acting suddenly and violently, so the clinic staff have to work with constant vigilance, in connection with the situation they experience constant psychological fear and anxiety;
- involve employees in training on the prevention of cruel, inhuman, or degrading treatment;
- The clinic staff does not receive any additional remuneration for working in this clinic, so it is advisable to make significant changes in the social security of employees.

Case
<p><i>In general, the staff of this clinic and patients are “Forgotten Islanders”. We have been waiting for many years that authorized officials to ensure and protect our rights guaranteed by the Constitution and laws of Mongolia will be taken into account.</i></p> <p><i>(From the notes of an interview with a doctor of the Forensic Psychiatry Clinic under the National Center for Mental Health)</i></p>

9. During a medical examination of female patients, as well as when they visit a specialized doctor for examination, diagnosis, examination, or inpatient treatment outside the clinic due to illness, there are no security guards of the same gender. And the fact that guards and employees of both genders of the Forensic Psychiatric Clinic change

clothes together in the same room violates the Gender Guarantee for ensuring gender equality in the health sector, set out in Article 13, Section 13.1 of the Law on Ensuring Gender Equality as “The State takes measures aimed at creating services for the specific health needs of men and women.”

On July 27, 2022, at about 8 a.m., O. B., a guard on duty at the clinic, slapped the forced patient G. O. for not complying with the requirements and inflicting an injury in the form of redness around the left cheek and a bruise in the right eye. The violation report was done by Official Letter No. 02/1709 dated 11.08.2022 of the Acting Head of the General Executive Agency for Court Decision, Order by the Head of the Detention Facility No. B/07 dated August 2, 2022 “According to the disciplinary sanction of O.B.” and the Submission on Investigation of Violations by Security Officers of the Detention Facility.

3.3.1.4. Recommendation of the Commissioner in charge of the Prevention of Torture

The recommendations of the Commissioner in charge of the Prevention of Torture were sent to the head of the National Center for Mental Health by letter No. 08/02 dated October 13, 2022, to the Minister of Health by letter No. 08/05, and to the Minister of Justice and Internal Affairs by letter No. 08/07.

Feedback on the work organized on the recommendation of the Commissioner in charge of the Prevention of Torture was submitted by an official letter within the time period established by law. For each content mentioned in the recommendations, 1-15, a total of 37 measures were planned, and the level of achievement, and implementation were reported for each measure.

On October 13, 2022, the response to the implementation of the work organized in accordance with the recommendations of the Commissioner in charge of the Prevention of Torture sent to the Government, the Minister of Health S. Enkhbold by letter No. 08/05 was submitted by letter within the deadline established by law.

However, it is especially noteworthy that the following contents were included in the official letter of the Minister of Justice and Internal Affairs with the official letter No. 1/5759 dated November 11, 2022.

2. With regard to the issues specified in part 4 of the recommendation, in the further development of recommendations, it is advisable to take into account that the General Administrative Law, Article 3, Section 3.1.4, which states that “Criminal inquiry and investigation, prosecutorial supervision over criminal procedure and maintenance of public order as well as enforcement of court decisions;” is not included in the operation of the law.

3. With regard to the issues referred to in Recommendation No. 5 noted that “... the authority that approved the act is responsible for reviewing and registering the act according to the request submitted by the organization and is not obliged to withdraw and review. So please refer to the minister in charge of the matter.”

This was regulated by Clause 3.2 of Article 3 of the General Administrative Law, which was declared invalid by the law of April 18, 2019, “This law shall apply to relations related to administrative activities of the Constitutional Court, courts of all levels, investigation, prosecutor, and bailiff offices except for those specified in Articles 3.1.3, and 3.1.4 of this law.”

Pursuant to the Law of April 18, 2019, on Amendments to the General Administrative Law, Section 3.2 of Article 3 above is considered invalid. Section 3.4 of Article 3 of this law reads “The relations specified in paragraphs 3.1.3 and 3.1.4 of this Law shall be governed by respective laws and other administrative activities shall be governed by this Law. And it means that the administrative normative acts of the organization, which do not apply to the operation of this law, shall be subject to the operation of the law.

Therefore, since ensuring and protecting the right to be free from torture, inhumane treatment, and discrimination is rooted in ensuring the right to know, it is appropriate that the relevant officials fulfill their obligations to comply with the legal requirements of the acts of administrative norms applicable in the territory of Mongolia.



4. RAISING AWARENESS AND PROMOTING THE PREVENTION OF TORTURE

4.1. In the field of Prevention of Torture training

Visit to Mongolia undertaken from 11 to 20 September 2017: observations and recommendations addressed to the State party⁴³ noted that “25. ... Furthermore, the State party should ensure that judges, prosecutors, health workers and others working in spheres relating to the documentation and investigation of torture and ill-treatment receive adequate training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and international standards relating to torture and ill-treatment, with particular attention given to the appropriate classification of cases of torture and the performance of specialized medical examinations...”

The Proposals referred to in the 18th Status Report on Human Rights and Freedoms in Mongolia⁴⁴ submitted to the State Great Khural for decisions, by the National Human Rights Commission of Mongolia included: “Raise awareness of employees of investigative, prosecutor`s, judicial, and court decision enforcement organizations on the right to be free from torture as stated in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other International instruments and make it a major principle of their work.

During the reporting period, a total of 3,357 officials, employees, and servicemen, including prosecutors, police, court decision enforcement agencies, employees of the National Center for the Elderly, personnel of specialized care in the social security sector, and employees of the National Center for Mental Health, were trained and took part in discussions on the following topics⁴⁵:

- Training on the topics of “Introduction of the National Preventive Mechanism of Torture”; “Issues of ensuring human rights to be free from torture, inhuman treatment, and discrimination”; “The human right to be free from torture and inhuman treatment included in international treaties and conventions” on the occasion of the request submitted by the head of the open and closed correctional unit No 407 under the General Executive Agency of Court Decision in official letter 01/794 dated November 8, 2022, and by the head of detention unit No. 461 of the General Executive Agency of Court Decision in official letter 1/20 dated January 5, 2023.

- Training on “Introduction of the National Preventive Mechanism of Torture”; “Issues of ensuring human rights to be free from torture, inhuman treatment, and discrimination” - to the officials of the Detention and Arrest Center of the Metropolitan Police Department and the members of the Civil Society Council under the National Human Rights Commission of Mongolia;

- To empower and raise awareness of officials for the protection of human rights to be free from torture, inhuman treatment, and discrimination, especially the fight and prevention of torture crimes, illegal arrest, detention, and discrimination, provided for in the special section of the Criminal Code, a meeting and discussion was held the topic “Prevention of Torture”. The training was conducted on the topic “Introduction of the National Preventive Mechanism of Torture”, and “Some issues on the implementation

⁴³ The National Human Rights Commission, the United Nations Resident Coordinator Office in Mongolia “Compilation of International Human Rights Treaties and Mongolia”, 2021, UB Volume Two, p. 443 / official and unedited document/.

⁴⁴ <https://nhrcm.gov.mn/>

⁴⁵ See the appendix for details.

of the Convention against Torture and its Optional Protocol” in cooperation with the Prosecutor’s Office of the Chingeltei District;

- Training on the topic “Problems of ensuring human rights in police rehabilitation and temporary detention centers” - during a meeting on “Improving medical care and services for citizens who have lost the ability to behave due to excessive consumption of alcohol”, organized by the Metropolitan Police Department;

- Training on the topic “Ensuring human rights in infringement investigation and resolution” during a meeting and discussion on the same topic, organized by the Police Department of the Bayanzurkh District.

Apart from the fact that some organizations have organized training on the right to be free from torture and prevention of torture in their training programs, the implementation of regularization of training on torture prevention in the training programs of law enforcement agencies is insufficient.

As for our country, steps are being taken to train lawyers and law enforcement officers on issues of torture, but there is a lack of training in this area for other specialists, such as medical specialists, psychologists, employees of nursing and social centers, and military units.⁴⁶

It is planned to develop the training program in accordance with the Istanbul Protocol, focus on training medical specialists and other related personnel in addition to lawyers and law enforcement officers, and support the proposal for the evaluation of the quality of training by an external organization.⁴⁷

4.2. In the field of promoting the National Preventive Mechanism of Torture

32 reports and information on the activities, monitoring visits, training, and meetings of the Commissioner in charge of the Prevention of Torture, and the Department for the Prevention of Torture with the support functions to the Commissioner were distributed to the public on the website of the National Human Rights Commission of Mongolia as well as on popular news sites and online environment.

To provide information to citizens about the operations of the Commissioner in charge of the Prevention of Torture, on February 15, 2023, the website “National Preventive Mechanism of Torture” was launched on social networks, which currently has more than 1,000 followers.

On December 02, 2022, Commissioner took part in the “Guest Time” program of the “Eagle” television with a report on the National Preventive Mechanism, and on October 16, 2022, he gave an interview to the “Eagle” television and Zarig. mn website on the Convention against Torture and its Optional protocol as well as the measures concerning the situation with torture crime and the preventive action.

On September 6, 2022, an interview was given in the daily newspaper “Zuunii Medee” on the topic of “Letting a person wait for long to take a statement and coercion are forms of torture”.

⁴⁶ Implementation of the right to be free from torture and other inhuman treatment” (Mongolian Human Rights NGO Forum, 2019.10.03).

⁴⁷ The state of human rights in Mongolia: problems and solutions /review study/, Human rights - Progressive Policy Institute 2021, Ulaanbaatar, page #31

The introduction to the Convention against Torture, adopted by the United Nations in 1984, was published and distributed to the public within 30 days from January 10 to February 8, 2023, on the website of the National Preventive Mechanism of Torture.

4.2.1. Advertising materials about the activities of the National Preventive Mechanism.

On January 30, 2023, in order to promote the Optional Protocol to the Convention against Torture, as well as publicize the legal regulations and reforms of the National Preventive Mechanism of Torture, a 10-15-minute presentation and video preparation of the announcement of the advisory service was distributed among the public, as a result, an agreement was concluded with Sartplanet LLC. The video presentation prepared in accordance with the agreement has been distributed to the public since February 10, 2023.

For example, the video presentation was aired 2-3 times in each on Mongolian National Television, UBS, TV5, TV6, TV8, TV9, Channel 25, Star, Malchin, Parliament, NTV, C1, Mongolia, and Education televisions and distributed to the public.

The Department for the Prevention of Torture has prepared the following manuals as a consulting service for officials conducting monitoring visits, as well as for organizations and departments, employees, and citizens.

- “Monitoring visits to state and non-state places of deprivation of liberty of child or places where a child can not leave at own request”

- “Monitoring the role and performance of public servants, legal entities, organizations providing mental health care and services, and medical professionals in protecting the right of persons suffering from mental issues and mental disorders to be free from torture, cruel, inhuman or degrading treatment”

Promotional videos with a sign language interpreter and English subtitles have been prepared for use by citizens with speech and hearing impairments and other civilians.



5.WORK IMPLEMENTED IN THE STRENGTHENING OF THE NATIONAL PREVENTIVE MECHANISM OF TORTURE

5.1. Cooperation with international organizations

5.1.1. United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

According to Article 34.1.8 of the Law on the National Human Rights Commission of Mongolia, the Commissioner in charge of the Prevention of Torture exercises the right to “represent the prevention of torture in domestic and/or foreign relations;”

According to Article 11 (b)⁴⁸ of the Optional Protocol to the Convention against Torture, which states that National Preventive Organizations and Mechanisms, once established, must build direct contact with the United Nations Subcommittee on Prevention of Torture and contact Subcommittee as a matter of priority, the National Preventive Mechanism of Mongolia works closely with the Subcommittee.

The UN Subcommittee on Prevention of Torture was established on December 18, 2006, has 25 members, and is the most extensive structure among the UN treaty committees.

The Subcommittee on Prevention of Torture has the main functions which consist in visiting all places of deprivation of liberty to States Parties, advisory functions, and strengthening the capacity of the States Parties to the Optional Protocol.

National preventive mechanisms that have begun their activities are primarily authorized for technical assistance with a view to strengthening their capacities and performing their functions by the Subcommittee, as well as to identifying their needs and methods of effective implementation of torture preventive activities.

In line with the Optional Protocol to the Convention against Torture and international human rights standards, we have begun working with the United Nations Subcommittee on Prevention of Torture to build capacity and strengthen staff to organize effective, realistic, and accessible preventive operations throughout Mongolia.

The Subcommittee carries out its mandate by visiting and observing States Parties to the Optional Protocol to the Convention against Torture. As part of the function, an official visit was made to Mongolia on September 11-20, 2017, and observations and recommendations⁴⁹ were provided to Mongolia based on the information and conclusions received during the visit.

The National Preventive Mechanism of Mongolia, within the framework of its functions, is focused on ensuring the implementation of the Recommendations of the UN Subcommittee, carrying out its activities in accordance with the requirements of the Optional Protocol to the Convention against Torture, developing multilateral partnerships with regional and international network organizations, participating in regional meetings of the National Prevention Mechanisms, in particular, it adheres to the policy of active participation in international meetings and events aimed at the exchange of experience on monitoring methods in places of restriction of human freedom.

⁴⁸ Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 11

⁴⁹ <https://docstore.ohchr.org/>

- On February 7, 2023, representatives of the Asia-Pacific region of the UN Subcommittee on Prevention of Torture organized an online meeting with employees of the Department for the Prevention of Torture and discussed the current situation of the National Preventive Mechanism and its functions. During the online meeting, the participants exchanged views on issues arising in the implementation of preventive measures and ways to solve them, as well as the knowledge and experience of employees and ongoing activities.⁵⁰

- The Commissioner in charge of the Prevention of Torture – Mr. Tselmen. Ya participated in person in the 20th anniversary of the adoption of the Optional Protocol to the Convention against Torture and the 15th anniversary of the establishment of the United Nations Subcommittee on Prevention of Torture were held on February 8 and 9, 2023 in Geneva, Switzerland. The purpose of this event was to exchange views on the achievements and problems of the National Preventive Mechanisms of the States Parties, to enable the National Preventive Mechanisms to share good practices and further cooperation in the effective implementation of the Optional Protocol and to define the future.

The Commissioner in charge of the Prevention of Torture met with the Vice-Chairperson of the UN Subcommittee on Prevention of Torture, Ms. Maria Luisa Romero, Subcommittee member Massimiliano Bagagli, and the member responsible for Mongolia, Nika Kvaratskhelia, and held a conversation on the progress of the implementation of the mandate on the torture prevention, its achievements, problems, and ways to solve them, as well as cooperation with the Subcommittee and NPM's of other countries, capacity building and exchange of experience.

Ms. D. Gerelmaa, the Permanent Representative of Mongolia to the United Nations Office at Geneva and the Ambassador Extraordinary and Plenipotentiary of Mongolia to the Swiss Confederation spoke on behalf of the Government of Mongolia during the event and expressed the policies, strategies, and ongoing activities of the Mongolian National Preventive Mechanism in the field of prevention. She mentioned ways and policies to improve the effectiveness of preventive measures and mentioned the further expansion of cooperation with the UN Subcommittee on Prevention of Torture and other international organizations.

The Permanent Representative of Mongolia to the United Nations Office at Geneva expressed the position of the Government of Mongolia aimed at strengthening and expanding the capacity of the National Preventive Mechanism, ensuring independence, and improving the legal environment.⁵¹

- The SPT is preparing a general comment on Article 4 of the Optional Protocol to the Convention against Torture with the aim of clarifying and addressing questions that States parties, national preventive mechanisms, and other relevant actors may have regarding the obligations of States parties to the Optional Protocol as they pertain to the definition of places of deprivation of liberty. During the 50th session of the Subcommittee on Prevention of Torture to be held on June 5-16, 2023, a joint public discussion will be held within the framework of the general comment.

In accordance with providing an opportunity to participate in the development and

⁵⁰ From the Annual Report of the Mongolian National Preventive Mechanism of Torture 2022

⁵¹ <https://media.un.org/en/asset/k1n/k1nbqlbcno>

discussion of draft general comments on Article 4 of the Optional Protocol to the States Parties and National Preventive Mechanisms, based on factors such as the characteristics of the NPM of Mongolia, the experience gained during the performance of its functions, improvements, and problems that need to be addressed, we are working on comments on the draft general comment on Article 4 of the Optional Protocol.⁵²

Mongolia has the full opportunity to nominate a Mongolian citizen who meets the appropriate criteria for selection as a member of the UN Subcommittee on Prevention of Torture and thus will be able to work in a leading area to strengthen and promote the National Preventive Mechanism of Mongolia in the Asia-Pacific region.

5.1.2. Cooperation with other UN human rights mechanisms

The Department for the Prevention of Torture functions of assisting the Commissioner in charge of the Prevention of Torture plans to cooperate with other human rights mechanisms within the UN human rights system, in addition to the Subcommittee on Prevention of Torture.

There is a need to work closely with the United Nations treaty and charter-based mechanisms to ensure the rights of groups such as children, women, people with disabilities, the elderly, and sexual minorities to be free from torture:

- On November 2, 2022, the Commissioner in charge of the Prevention of Torture participated attended the Online Summit of the National Human Rights Commission of Mongolia and the Conference of National Human Rights Organizations of the Asia-Pacific Region to discuss the effective organization of the national preventive mechanism.⁵³

- The Commissioner and personnel of the Department for the Prevention of Torture took part in the meeting held on October 3-14, 2022 with the UN Working Group on Arbitrary Detention⁵⁴ during the official visit of the Working Group to Mongolia.⁵⁵

The conclusion made by the working group according to its monitoring visits carried out in places of deprivation of liberty and where a person can not leave at their own request included a section related to the National Preventive Mechanism. In this section, the Working Group called on the Government of Mongolia to strengthen the capacity of the National Preventive Mechanism to perform its functions independently and effectively, for this purpose further increase financial resources, and ensure the financial independence necessary to fulfill its mandate to conduct unannounced monitoring visits in places of deprivation of liberty. In addition, the Working group called on the Government to increase the number of staff of the National Preventive Mechanism to an appropriate level and ensure independence in choosing human resources.⁵⁶

⁵² <https://www.ohchr.org/en/calls-for-input/2023/call-comments-draft-general-comment-subcommittee-prevention-torture-spt>

⁵³ <https://nhrcm.gov.mn/search?search=%D0%90%D0%B7%D0%B8+%D0%BD%D0%BE%D0%BC%D1%85%D0%BE%D0%BD> An online summit was held with the Conference of National Human Rights Organizations in the Asia-Pacific region

⁵⁴ https://www.ohchr.org/sites/default/files/2022-09/WGAD_Mongolia_PR-29Sep2022_Mongolian.pdf for the purpose of investigating cases of unreasonable and arbitrary deprivation of liberty of others

⁵⁵ <https://nhrcm.gov.mn/search?search=%D0%94%D1%83%D1%80+%D0%B7%D0%BE%D1%80%D0%B3%D0%BE%D0%BE%D1%80> The National Human Rights Commission exchanged views with members of the UN Working Group on Arbitrary Detention

⁵⁶ UN's Working group on Arbitrary Detention: Preliminary Findings from its visit to Mongolia (3 to 14 October 2022)

- 14th International Conference of National Human Rights Institutions on “Torture and Other Ill-treatment: The Role of National Human Rights Institutions (NHRIs)”⁵⁷ which will be held in November 2023 jointly with the Global Alliance of National Human Rights Institutions, the Ukrainian Parliament Commissioner for Human Rights and the Danish Institute for Human Rights in cooperation with the United Nations Human Rights Office. The Commissioner in charge of the Prevention of Torture took part in the preliminary e-discussion of the 14th international conference on the role of national organizations.

In the preliminary discussion held online, the Commissioner noted in his speech about the implementation of the recommendations of the Subcommittee, cooperation, learning from international experience and putting it into practice, developing multi-faceted partnerships with regional and multinational network organizations, and actively participating in their activities. And shared with the participants that the Mongolian National Preventive Mechanism aims to strengthen the capacity of our national operations officers to become an example of good practices and a model country for the prevention of torture in the region, especially in Northeast Asia.⁵⁸

5.1.3 International projects

During this period, since the Commissioner was appointed and began to exercise his mandate, several pressing issues have been identified in the course of the implementation of his duties.

For example, there is a real need to ensure consistency among national human rights laws, especially on the right to be free from torture, to improve the legal system, and to empower and bring the number of employees of the National Preventive Mechanism to a level that meets the appropriate ration and standards of population and territory, as well as ensuring the independence of the budget of the National Preventive Mechanism.

Therefore, we seek the support of the United Nations and international funding organizations and adhere to a policy of cooperation.

- For the first time on February 20, 2023, the Mongolian National Preventive Mechanism submitted a project proposal “Capacity Building and Strengthening the National Preventive Mechanism of Mongolia” to the Special Fund⁵⁹ of the Optional Protocol to the Convention against Torture, established with the main purpose of supporting the National Preventive Mechanism of the States Parties to the Optional Protocol.

It the project will get supported its implementation will take one year from January 1 to December 31, 2024, under the following three main objectives.

- Strengthening the capacity of the National Preventive Mechanism in accordance with international human rights standards.

⁵⁷ <https://ganhri.org/14th-international-conference/>

⁵⁸ From the Annual Report of the Mongolian National Preventive Mechanism of Torture 2022

⁵⁹ <https://www.ohchr.org/en/about-us/funding-budget/trust-funds/the-special-fund-focus-torture-prevention>

- Raise public awareness of the right to be free from torture and human rights and make significant progress in the ethics and attitudes of duty bearers, government, and other related organizations, and government officials towards respect for human rights.

- Develop manuals for employees of the National Preventive Mechanism and for employees of related stakeholders within the scope of norms, standards, and principles stipulated in the Convention against Torture and its Optional Protocol and Istanbul Protocol.

5.1.4. Cooperation with the National Preventive Mechanisms of other countries

Following the recommendations given to Mongolia by the UN Subcommittee on Prevention of Torture, under the requirements of the Optional Protocol to the Convention against Torture, we have taken the first steps to establish relations with the National Preventive Mechanisms of other countries, share best practices and cooperate, which is beneficial in gaining experience in strengthening the mechanism, improving national legislation and building the capacity of human resources.

Based on the study and evaluation of the established structure, new and advanced methods of implementing its functions, as well as the features of the Law on the National Preventive Mechanism of countries, we intend to establish contact and cooperate with more than 10 countries in the future.

Currently, through the members of the UN Security Council Subcommittee, we are working to establish contacts with Italy and Georgia and start cooperation.⁶⁰

Also, with the support of the Special Fund of the Optional Protocol, within the framework of the project to be implemented in 2024, we are working to study the best practices of the national mechanism of the Federal Republic of Germany.⁶¹

5.1.5. Cooperation with other international human rights organizations

Within the framework of the National Preventive Mechanism of Torture, we strive to develop coordinated cooperation with international organizations, associations, and networks.

This is important for empowering the employees of the newly established National Preventive Mechanism, and for carrying out functions in a broad, accessible, independent, impartial, and effective manner.

A database has been created covering 12 international organizations that carry out preventive action and the fight against torture, and on its basis, we are working to establish contacts with the first organizations and establish cooperation between institutions.

• **Association for the Prevention of Torture**⁶² - was first established in 1977 as the Swiss Committee against Torture and later adopted its current name.

With the adoption in 1987 of the European Convention for the Prevention of Torture, the organization expanded its activities at the international level, building on

⁶⁰ <https://www.facebook.com/NPMMongolia/posts/pfbid02L7pTqvEF9QjG1AEsE1o27JyJifgKwyQRP6TfGWsQTGjjduNM4vJpo2WRZpDwaBXUI>

⁶¹ The project “Capacity Building and Strengthening the National Preventive Mechanism of Mongolia” submitted to the Special Fund of the Optional Protocol to the Convention against Torture

⁶² <https://www.ap.t.ch/en>

its successful experience at the regional level, and began to work in support of the improvement of the legal system, national preventive mechanisms, National human rights organizations, civil society and governments of countries to take effective measures to prevent torture and other forms of cruel, inhuman or degrading treatment.

The General Secretary of the Association for the Prevention of Torture, Ms. Barbara Bernath, accepted our offer with pleasure and expressed her readiness to work together in this area⁶³:

- Collaborate in training and promotional work to localize the “Principles on effective interviewing for investigation information gathering”⁶⁴ in Mongolia, put them into legal use, influence government, and non-governmental organizations and employees to apply this principle in their daily activities;

- include the staff of the unit in training and seminars aimed at strengthening the capacity of personnel for the effective implementation of the National Preventive Mechanism, and study best practices;

- make an official visit to Mongolia at the invitation of the Commissioner in charge of the Prevention of Torture to get acquainted with the preventive operation in Mongolia and provide advice;

- **The Anti-Torture Initiative**⁶⁵ was founded in 2011 by former UN Special Rapporteur on Torture (2011-2016), professor of Human Rights Law, Juan E. Méndez, to expand the scope of work to combat and prevent torture, and to increase actual implementation and is a core project of the Center for Human Rights and Humanitarian Law.

Within a very short period of time, the organization’s strategies and approaches have had a profound impact on efforts to combat torture, deepen and expand the global anti-torture movement, and prevent it.

As part of his former mandate as UN Special Rapporteur, Juan E. Méndez⁶⁶ takes strategic interventions to help deliver country-specific activities through targeted advocacy, technical assistance, capacity-building training, and civil society engagement in the countries he visits.

The presentation and promotion of the “Principles on Effective Interviewing for Investigations and Information Gathering”, developed at the initiative and under the guidance of Mr. Juan E. Méndez, former UN Special Rapporteur on Torture, with the support of the Anti-Torture Initiative (ATI), Association for the Prevention of Torture (APT), Norwegian Center for Human Rights (NCHR)⁶⁷, were organized for all legislative, executive, judicial and law enforcement agencies and officials in Mongolia who collect information and conduct investigations.

On the occasion of the “International Day in Support of Victims of Torture”, a meeting and discussion were held to introduce the “Méndez Principles” on June 24,

⁶³ <https://www.facebook.com/NPMMongolia/posts/pfbid02L7pTqvEF9QjG1AEsE1o27JyJifgKwyQRP6TfGWsQTGjjduNM4vJpo2WRZpDwaBXUI>

⁶⁴ https://www.apt.ch/en/news_on_prevention/new-principles-effective-interviewing-investigations-and-information-gathering

⁶⁵ <https://www.wcl.american.edu/impact/initiatives-programs/center/ati/>

⁶⁶ <https://www.ohchr.org/en/special-procedures/sr-torture/juan-mendez-former-special-rapporteur-2010-2016>

⁶⁷ <https://www.jus.uio.no/smr/english/>

2022. Representatives of 15 government and civil society organizations took part in the meeting and discussion: the Commissioner in Charge of the Prevention of Torture, the National Human Rights Commission, the Anti-Corruption Agency, the National Police Agency, the General Executive Agency of Court Decision, the General Intelligence Agency, the Mongolian Bar Association, the Association of Mongolian Advocates, Amnesty International Mongolia, Mitchell Foundation, University of Internal Affairs.

The Commissioner in charge of the Prevention of Torture presented the content and concept of “Principles on Effective Interviewing for Investigations and Information Gathering”, and the representatives of state and civil society organizations, universities, and colleges identified the needs and requirements for the implementation of the “Méndez Principles” in their activities and expressed their positions.

As a result of this meeting and discussion, judiciary and law enforcement agencies, higher educational institutions, professional associations, and civil society organizations were called upon to actively participate and cooperate in the implementation of the “Principles on Effective Interviewing for Investigations and Information Gathering” in the application of Mongolian law, the integration of the term into a single whole and its inclusion in methodologies and educational programs of law and law enforcement universities, as well as multifaceted training, promotion, and influence activities.

Further, within the framework of the National Preventive Mechanism of Torture, we have made an offer to the organization “Anti-Torture Initiative” for cooperation in the following areas.

- Collaborate in training and promotional work to localize the “Principles on effective interviewing for investigation information gathering” in Mongolia, put them into legal use, influence government, and non-governmental organizations and employees to apply this principle in their daily activities;

- include the staff of the unit in training and seminars aimed at strengthening the capacity of personnel for the effective implementation of the National Preventive Mechanism, and study best practices;

5.2. Cooperation with civil society and non-profit non-governmental organizations, officials and citizens

According to paragraph 34.1.7 of Article 34 of the Law on the National Human Rights Commission of Mongolia, the Commissioner in charge of the Prevention of Torture has the mandate to collaborate with non-profit legal entities, and other organizations to prevent torture, inhumane treatment, and discrimination as well as to share information and constantly inform the public in order to prevent.

As part of ensuring the fulfillment of the mandate of the Commissioner in charge of the Prevention of Torture, communication, and collaboration with the unit and its staff for monitoring, analysis, and training, the media, publicity of state and non-state organizations, civil society organizations working in the field of torture prevention were included in the annual performance of the Department for the Prevention of Torture and implemented during the reporting period.

5.2.1. Cooperation with non-profit non-governmental organizations

The Commissioner and staff of the National Preventive Mechanism organized meetings and interviews with the leaders and representatives of Amnesty International Mongolia on September 2, 2022, and March 14, 2023. As a result, we began working together to ensure citizens' right to be free from torture and strengthen the National Preventive Mechanism of Torture.”⁶⁸

- The Commissioner in charge of the Prevention of Torture participated in a discussion on the topic “The State on Human Rights in the World and its reflection in Mongolia”, organized by Amnesty International Mongolia on March 28, 2023.

- On February 6, 2023, employees of the National Preventive Mechanism met with representatives of the NGO “LGBT Center Mongolia” and discussed the violation of human rights of “sexual minorities” in all places where human rights and freedoms are in any way restricted as prescribed by law, or places a person cannot leave of his own free will. A mutual agreement was reached on cooperation in the field of prevention, especially training, and promotion of activities to protect the right to be free from discrimination.⁶⁹

- On October 2, 2022, the Commissioner and employees of the National Preventive Mechanism met with the Magic Land project team in the province of Dundgov and got acquainted with the project development process, discussing further cooperation.⁷⁰

- On June 20, 2022, S. Dondov, a Commissioner of the National Human Rights Commission, and Y. Tselmen, a Commissioner in charge of the Prevention of Torture, organized a meeting with the President of the Association of Mongolian Advocates, B. Oyu-Erdene, and the Chairman of the Board B. Baatarsaikhan exchanged views on strengthening the national system of protection of human rights and freedoms and the prevention of torture, especially on ensuring the right to legal assistance of persons investigated for crimes and offenses, and on cooperation in the field of training and promotion in the realization of the right to be free from torture.⁷¹

5.2.2. Participation in relevant conferences, meetings, and discussions

- The Chief Commissioner and Commissioners of the National Human Rights Commission of Mongolia, as well as the Commissioner in charge of the Prevention of Torture met with representatives of political parties on August 29, 2022, during the meeting, information was provided on ongoing activities to prevent torture and held a discussion.

- In the discussion “The Right to Education: Draft Law on Education” organized

⁶⁸ <https://www.facebook.com/AIMONGOLIA>

⁶⁹ <https://www.facebook.com/LGBTtuv>

⁷⁰ <https://www.facebook.com/idShidiinOronDundgovi/posts/pfbid024BgaYwfMHMh5GuTbxmEf4j4HrwSWEd6snuBrUdmA6WG44qcMNGWiJSUiMUMjRrURI>

⁷¹ <https://nhrcm.gov.mn/search?search=%D0%9C%D0%BE%D0%BD%D0%B3%D0%BE%D0%BB%D1%8B%D0%BD+%D3%A8%D0%BC%D0%B3%D3%A9%D3%A9%D0%BB%D3%A9%D0%B3%D1%87%D0%B4%D0%B8%D0%B9%D0%BD+> A meeting was held with the President of the Association of Mongolian Advocates

jointly by the Institute of Constitutional Law of the National University of Mongolia and the National Coalition of Civil Society “All for Education”, the Commissioner and employees of the National Preventive Mechanism of Torture took part and exchanged views.

- The Commissioner and employees of the National Preventive Mechanism of Torture took part in the meetings and discussions of the research project “Mongolian judicial index”, developed by the NGOs “Open Society Forum” and “Intellectual Innovation”.

- The Commissioner in charge of the Prevention of Torture participated in the national conference “The Current State of mental health of Citizens of Mongolia and further issues to be considered”.

- On November 2, 2022, the Commissioner in charge of the Prevention of Torture participated in an e-Summit held with the National Human Rights Commission of Mongolia and the Conference of National Human Rights Organizations of the Asia-Pacific region and discussed the new mandate of the National Human Rights Commission - National Preventive Mechanism and its effective implementation.

Civil society plays a key role in the prevention of torture.

Since it is independent of the state and does not suffer from external influences, in some cases information about torture reached civil society organizations before the National Preventive Mechanism of Torture.

Therefore, ensuring the participation of civil society in monitoring and educational activities is one of the tasks of the National Preventive Mechanism.

The Commissioner in charge of the Prevention of Torture and the Department for the Prevention of Torture under the National Human Rights Commission of Mongolia is striving to create a network including civil society organizations that operate in the field of human rights and prevention of torture, such as “Amnesty International Mongolia” and “LGBT Center Mongolia”, which completed certain tasks in the field of combating torture, its prevention, and raising awareness among citizens on torture and is smoothing the cooperation.

If effective and specialized collaboration with civil society organizations can be established and regularized, the National Preventive Mechanism can give an important impetus to the strengthening of the national mechanism.

5.3. The need and requirement to strengthen the National Preventive Mechanism

The National Preventive Mechanism of Torture play a key role in complementing the work of international bodies for the prevention of torture.

To do so, National Preventive Mechanisms must be equipped not only with a strong legislative mandate but also with the necessary human and financial resources.

To this end, the National Preventive Mechanism should be given full powers to carry out its functions effectively. For this reason, the drafters of the Optional Protocol stipulated the legal obligations of States Parties regarding the independence, mandate, and the right to directly manage the budget of the National Preventive Mechanism.

According to Article 4 of the Optional Protocol, when establishing a national preventive organization, a State Party shall guarantee:

- Functional independence
- Experts of the national preventive mechanism have the required capabilities and professional knowledge
- To make available the necessary resources for the functioning of the national preventive mechanisms.

We propose to take the following measures to strengthen the National Preventive Mechanism in Mongolia according to international standards.

5.3.1. On the issue of human resources for employees of the National Mechanism for the Prevention of Torture

Section 36.1 of Article 36 of the Law on the National Human Rights Commission of Mongolia states that “Full-time unit shall work for the Commissioner in charge of Prevention of Torture Matters to assist him/her.”, and Section 36.3 of this Article states “Unit on prevention of torture shall be under the Secretariat of the Commission and exercise only functions provided in Article 33.1 of this Law.”

The Secretariat of the National Human Rights Commission and the Commissioner in charge of the Prevention of Torture have organized the human resources of the unit in such a way that the Unit operates with 10 employees. Subsequently, based on the resolution “On issuance of Permits” of the Civic Service Council dated July 7, 2022, the “Position Descriptions” for the employees of the unit were approved.

When discussing the budget of the National Human Rights Commission and the National Preventive Mechanism of Torture at a meeting of the Standing Committee on Justice of the Parliament, committee member B. Enhbayar proposed “..to support the budget and staffing of the newly established Unit for the Prevention of Torture and approve it without deductions from budget” and it was supported by members. However, at the budgetary control meeting chaired by a senior advisor to the Standing Committee on Justice, it was decided to exclude 10 of the 93 positions of the National Human Rights Commission posts from the 2023 budget estimates due to the economic situation in the country. As a result, the operating budget and the salary budget for 5 employees were deducted.

The senior advisor to the Standing Committee on Justice stated that the number of employees of the Unit for the prevention of torture could increase each year depending on the scale of operations, the number of people the unit meets regularly, and the route of monitoring visits. We are confident that the proposal of the Chairman of the Standing Committee on Justice to increase the number of employees annually or provide full positions will be supported and implemented, which will be a great support for the National Preventive Mechanism of Torture.

In Preliminary Findings of the United Nations Working Group on Arbitrary Detention in the section on the National Preventive Mechanism concluded that “*The Working Group strongly welcomes the designation of the National Preventive Mechanism (NPM) in Mongolia, which has been overdue in accordance with Mongolia’s ratification of the Optional Protocol to the Convention against Torture (OPCAT) in 2015.*”

The mandate of the NPM of Mongolia has been vested with the NHRC with a designation of a Commissioner in charge of the NPM work.

This is a permanent role, which will remain in the portfolio of the designated Commissioner for the duration of its mandate, whose work will be supported by the newly established NPM Unit. However, the Working Group notes with concern that, whilst it was designated that the Unit would be composed of ten experts from various disciplines, due to required budgetary savings the Unit will operate with only five staff for an initial period of two years.

Moreover, the Working Group is concerned about the role of the Civil Service Council in the selection of the staff of the NPM Unit and the minimal role allocated in this to the Commissioner in charge of the NPM.

The Working Group underscores the importance of ensuring the ability of the NPM to function independently and urges the Government to ensure the autonomy of the NPM in selecting its staff. It is also crucial that the NPM Unit is able to commence work with a full complement of ten staff as a matter of urgency especially given the geographical expanse of Mongolia with some of the places of deprivation of liberty being located in very remote regions of the country.”

Paragraph 34.1.9 of Article 34 of the Law on the National Commission for Human Rights of Mongolia defines the mandate of the Commissioner for the Prevention of Torture as “to appoint and/or dismiss the head of the Department for the Prevention of Torture”. ;”. However, it is not clear how the law will apply to the appointment of unit employees as commissioners or unit heads.

Further, it is necessary to take measures to ensure conditions for the independent implementation of its functions and mandate by the National Preventive Mechanism in accordance with the legislation of Mongolia and the acceding international agreements.

5.3.2. Budget Effectiveness and Independence of the National Preventive Mechanism of Torture

The National Preventive Mechanism of Torture plays a key role in complementing the work of international bodies for the prevention of torture.

To do so, National Preventive Mechanisms must be equipped not only with a strong legislative mandate but also with the necessary human and financial resources.

The National Preventive Mechanism should be given full powers to carry out its functions effectively. Fully aware that the establishment of a National Preventive Mechanism is not meaningful unless it is enabled to perform its functions effectively, the drafters of the Optional Protocol explicitly stipulated legal obligations for the States parties concerning the independence, mandate, and budgetary resources of such mechanisms.

Section 31.3 of Article 31 of the Law on the National Human Rights Commission of Mongolia legalized that “the budget for prevention of torture shall be complete, continuous, impactful and adequate for working independently.”

In Preliminary Findings of the United Nations Working Group on Arbitrary Detention in the section on the National Preventive Mechanism concluded that “*Further, the Working Group was informed that a budget for the NPM work has been allocated as part of the overall NHRC budget and it has been earmarked in the overall NHRC budget, which is a positive. However, the Working Group is seriously concerned that the NPM does not have full financial independence in that the Commissioner is unable to allocate the funding designated for the NPM work independently, without the authorization of the Chief Commissioner and the Head of Administration of the NHRC.*

This has a particularly negative effect on the ability of the NPM to carry out unannounced visits to places of deprivation of liberty, which is essential to its mandate. The Working Group urges the Government to safeguard the financial independence of the NPM, especially as it relates to the ability to carry out unannounced visits.

The Working Group received testimony of the visits carried out by the NHRC and the NPM, which is highly commendable. The Working Group recalls the vital role that regular independent oversight has in preventing arbitrary deprivation of liberty and urges the Government to further strengthen the ability of the both the NHRC and the NPM to carry out its functions independently and effectively. To this end, the Working Group urges further increase of financial resources at the disposal of the NPM to enable it to implement its mandate effectively and independently.”

Following the discussion of the “Report on the State of human rights and Freedoms in Mongolia”⁷² and the “Second Report on the Implementation of the Convention against Torture in Mongolia”, pressing issues related to the protection of the right to be free from torture, cruel, inhuman, and degrading treatment in Mongolia were considered and ways of urgent solutions were identified in the “Recommendations of Mongolia” (2016) from the UN Committee against Torture, “Visit of the UN Subcommittee on Prevention of Torture to Mongolia from 11 to 20 September 2017: Observation and Recommendations to the State Party” (2017).

In addition: “To ensure economic guarantee for the prevention of torture and to legislate a prohibition on reducing the budget for this activity compared to the previous year.”

However, the law on the National Human Rights Commission of Mongolia did not create conditions for the economic independence of the National Preventive Mechanism to carry out its activities.⁷³

In 2022 and 2023, 10 additional posts were excluded from the total number of positions added to the budget forecasts of the National Human Rights Commission, and therefore, by decision of the Commission’s management, 5 positions related to the human resources of the Department for the Prevention of Torture were removed. Also, based on reasons such as the fact that the operating budget of the Department did not increase compared to the budget of the previous year, the relevant officials of the Commission changed the staffing, salary fund, and operational expenses of it, regardless of the opinion of the Commissioner in charge of the Prevention of Torture.

This fact not only violates the guarantees provided for in Article 31, Section 31.2 of the Law on the National Human Rights Commission of Mongolia “The Commissioners and other officials shall be prohibited to influence and/or interfere with the activities of the Commissioner in charge of Prevention of Torture Matters.” and in Section 31.3 of this Article “Budget for prevention of torture shall be complete, continuous, impactful and adequate for working independently.” but also causes difficulties in completing the

⁷² The 13th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2014), 68-91; 14th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2015), 7-60; 15th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2016), 9-4; The 16th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2017), 140-152; The 17th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2018), 170-175; The 18th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2019), 139-170; The 19th Status Report on Human Rights and Freedoms in Mongolia (NHRC, 2020), 180-186;

⁷³ Munkhsaikhan.O. “Independence and impartiality of the National Human Rights Commission and the National Preventive Mechanism of Torture, National Human Rights Commission: Selection and Budgeting”, Law supremacy. No. 03 (82) NLIM, 2021. p. 21-53.

implementations by the UN Committee against Torture of the “Recommendations to Mongolia” (2016), and of the “Visit of the UN Subcommittee on Prevention of Torture to Mongolia from 11 to 20 September 2017: Observation and Recommendations to the State Party” (2017).

The research report “Analysis of the Budget and Financial Independence of Independent Institutions” dated December 10, 2022, officially presented to us at the initiative of the NGO “Open Society Forum”, made the following conclusions.

- Despite the fact that the National Human Rights Commission and the Commissioner in charge of the Prevention of Torture are two independent institutions, budgetary and financial independence cannot be realistically and clearly implemented according to the Law on the Budget. Specifically, according to the Law on the Budget, the Chief Commissioner of the National Human Rights Commission is the General Manager of the budget, while the Head of the Secretariat of the National Human Rights Commission is the Direct Manager of the budget.

- When reviewing and approving the budget of the National Human Rights Commission, the central state administrative body in charge of finance and budgetary and the Standing Committee on Justice of the Parliament must take into account the requirement that the budget of the Commissioner in charge of the Prevention of Torture be sufficient for its activities and fully perform its mandate.

- Despite the legalization of the independence of the Commissioner in charge of the Prevention of Torture, there is a risk of involvement of other parties in terms of budget and finances.

Therefore, the issue of amending the law on the National Human Rights Commission of Mongolia as well as measures to ensure conditions for the independent implementation of the National Preventive Mechanism of Torture should be studied and resolved in accordance with the law of Mongolia and international treaties that Mongolia is affiliated.

6. CONCLUSION

In the conclusion of the “Third regular report submitted by Mongolia to the UN Committee against Torture on the implementation of the Convention /2020/ it was reflected that “Laying down the legal basis for the designation of a Commissioner in charge of the Prevention of Torture within the structure of the National Human Rights Commission of Mongolia has created a legal environment for the establishment of the independent, impartial National Preventive Mechanism of Torture in the country” and “The Government of Mongolia fulfills its obligations under the Convention against Torture, and efforts are being made to organize its implementation”.

The Department for the Prevention of Torture works to ensure the implementation of the annual performance plan in accordance with the strategy of the National Preventive Mechanism considering the principles stipulated in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol, and the Law on the National Human Rights Commission of Mongolia.

The National Preventive Mechanism under the “**Torture-free Mongolia**” vision, we are working on short and medium term strategy by studying the causes and factors of the system that may violate freedom from torture and aspiring toward becoming a leader at the international and regional levels in organizing national preventive mechanism on practical, sensible and accessible ways:

- Strengthening the system with independent, impartial, and comprehensive prevention activities;
- Conduct the National Preventive Mechanism of Torture effectively;
- Regular and effective implementation of monitoring and analysis;
- Raising awareness of the right of citizens to be free from torture;
- Ensuring the implementation of the principles of prevention of torture.

To ensure the realization of the right to be free from torture, inhuman treatment, and discrimination, it is necessary to regularly visit, and monitor more than 37,000 people who are in places that are unable to leave at their request in accordance with the law and international treaties. It can be implemented as a result of well-coordinated interaction with the leadership of judicial, investigative, and law enforcement agencies and their employees.

Since August 4, 2022, the Department for the Prevention of Torture has carried out monitoring visits by a group of 5 employees, in accordance with the approved instructions and plans, to a total of 23 places, including correctional institutions, prisons, pre-trial detention centers under the General Executive Agency of Court Decision located central and local areas, namely Closed Correctional Unit No. 461, Forensic Psychiatric Clinic of the National Center for Mental Health, Nursing Units, National Center for the Elderly.

As part of the monitoring visits, 48 employees of the facilities and 411 people in custody, and those arrested and serving sentences in places of deprivation of liberty were individually interviewed, questionnaires were taken from 1,954 people in places not able to leave voluntarily, consultations were provided for 209 people, and 6 complaints were transferred and investigated according to jurisdiction.

11 recommendations have been submitted to eliminate the causes and conditions associated with the decisions and actions of organizations, officials, and legal entities that may use torture, and other cruel and inhuman degrading treatment or punishment,

determined within the framework of monitoring visits and prevention measures, and ensuring its implementation. Also, the National Preventive Mechanism regularly informs the public about the national operation through the official website.

In total, 3,357 people took part in the training on human rights to be free from torture and inhuman treatment, and discrimination, including employees of judicial, investigative, and law enforcement agencies, and citizens of the target group. We prepared visual information about an understanding of the dangers of torture, and the right to be free from torture to state civil servants and citizens aired 8 times through the mass media.

In addition, the Annual Report of the National Preventive Mechanism 2022, the Preliminary findings of the United Nations Working Group on Arbitrary Detention on the National Preventive Mechanism, and the research report “Analysis of the Budget and Financial Independence of Independent Institutions” determine that “Despite the fact that the National Human Rights Commission and the Commissioner in charge of the Prevention of Torture are two independent institutions, budgetary and financial independence cannot be realistically and clearly implemented according to the Law on the Budget and there is a risk of involvement of other parties in terms of budget and finances.

During the discussion of the third National Report on the State of Human Rights in Mongolia at the 36th session of the Working Group of the United Nations Human Rights Council (UPR)⁷⁴ on the review of the state of human rights, the following recommendations were submitted from other countries: *Accelerate the implementation of the national mechanism for the prevention of torture /Mexico/; Adopt further measures to improve living conditions in prisons and strengthen the independent and regular monitoring of all places of deprivation of liberty /Norway/; establish an independent and effective procedure to investigate complaints of torture, particularly against persons deprived of their liberty /Mexico, France, Poland, Romania/; Establish an independent body to investigate cases of torture and degrading treatment /Maldives, Botswana, Spain/; Strengthen measures on the prevention of torture and other forms of cruel, inhuman and degrading treatment, including through the regular training programme designed for judges, prosecutors and officers /Indonesia/.*

Further, in order to ensure the implementation of the recommendations of the UN Committee against Torture and the UN Sub-Committee on Prevention of Torture, cooperate, apply international experience in practice, develop diversified partnerships with regional and international network organizations, actively participate in events, conduct research in cooperation with investigative and law enforcement agencies, as well as maintaining regular monitoring, training, and promotion by empowering the staff of the National Preventive Mechanism.

⁷⁴ <https://www.upr-mongolia.mn/?cmd=Content&menuid=41&id=227> During the discussion of the third National Report on the State of Human Rights in Mongolia at the 36th session of the Working Group of the United Nations Human Rights Council (UPR) on the review of the state of human rights, 170 recommendations were submitted from other countries

7. SUGGESTION

Recalling the importance of Mongolia fulfilling its obligations under the Constitution of Mongolia, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol;

Bearing in mind the imperative to implement the recommendations of the United Nations' human rights mechanisms and their independent experts and working groups;

Sensing the time when the National Prevent Mechanism of Torture is being formed in Mongolia the National Preventive Mechanism of Torture;

Emphasizing the protection of the rights of people behind many closed doors;

Emphasizing the urgent need for the participation and support of legislators, politicians, international organizations, non-governmental organizations, human rights and social activists, researchers, and citizens;

It is advisable to solve the challenges and problems faced by making amendments to the Criminal Law of Mongolia, the Law on the Review of Criminal Cases, the Law on the National Human Rights Commission, and other laws and regulations.

Based on Section c) of Article 19 of "Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" and paragraph 34.1.2 of Article 34 of the Law on the National Human Rights Commission of Mongolia, the National Preventive Mechanism makes the following proposals:

7.1. Amend the definition of the crime of torture in Article 21.12 of the Criminal Code of 2015 to include all elements of Article 1 of the Convention against Torture;

7.2. The inclusion of "torture" in the Criminal Code as an aggravating circumstance for four types of crimes creates uncertainty in the classification of crimes, therefore, according to the Convention against Torture, the crime of "torture" should be properly defined and the punishment should be strengthened;

7.3. The law on Criminal Procedure regulates that evidence collected through torture is not considered evidence, but it still remains that the assessment of the evidence other than testimony as evidence, even if the evidence was obtained under torture. Therefore, it is advisable to amend the law;

7.4. To make the rationale for the application of the measure of restraint more detailed and clear;

7.5. Immediately establish an independent body for the independent and fair investigation of crimes related to torture, in accordance with all UN requirements, and for this create a legal framework by providing the mandate to investigate not all cases committed by a special entity, but only those related to torture and ill-treatment, provide opportunities to be specialized and compact and narrowness, and to explore the issues of full power, independence, and sufficient budget for the investigation and create the legal framework;

7.6. Issue a resolution on certain measures for the implementation of the National Preventive Mechanism of Torture;

7.7. Guarantee the independence and impartiality of the operation of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture as reflected in the "Visit of the UN Subcommittee on Prevention of Torture to Mongolia from 11 to 20 September 2017: Observation and Recommendations to the State Party" (2017). For example, to define in detail the principles for implementation of the legislation on

the Law on the Civil Service and the Law on Budget of Mongolia within the framework of the mechanism;

7.8. To increase the number of human resources of the Department with the function of assisting the Commissioner in charge of the Prevention of Torture, to create the requirements for employees following the Optional Protocol to the Convention against Torture, and according to the law on the National Human Rights Commission of Mongolia, to issue directions to the relevant authorities to implement the legal concept that an official who is authorized to appoint the head of the unit and other employees shall be the Commissioner in charge of the Prevention of Torture.

8. APPENDIX#1

International organizations conducting activities to prevent and combat torture

№	Institution	Brief introduction
1	<p>European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</p> <p style="text-align: center;">/CPT/</p>	<p>The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is the body set up to monitor the implementation of the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (referred to as the European Torture Convention).</p> <p>The CPT was created in November 1989, in accordance with Article 1 of the European Torture Convention. Its role is to “examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment” (Art. 1 of the European Torture Convention). The European Committee for the Prevention of Torture is an integral part of the European system of human rights protection. Its monitoring is mandatory for all States that ratified the European Torture Convention.</p>
2	<p>Organization for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights</p> <p style="text-align: center;">/OSCE-ODIHR/</p>	<p>The OSCE Office for Democratic Institutions and Human Rights (ODIHR) provides support, assistance, and expertise to participating States and civil society to promote democracy, the rule of law, human rights and tolerance, and non-discrimination.</p>
3	<p>European Union Agency for Fundamental Rights</p> <p style="text-align: center;">/FRA/</p>	<p>The EU Agency for Fundamental Rights (FRA) provides independent, evidence-based advice to EU and national decision-makers, thereby helping to make debates, policies, and legislation on fundamental rights better informed and targeted. FRA maintains ongoing cooperation with EU institutions and governments, providing them with independent expert advice and fundamental rights analysis. It has set up networks and established links with partners at all levels so that its advice and research can reach decision-makers in national governments and the EU.</p>

4	<p>Association for the Prevention of Torture</p> <p style="text-align: center;">/APT/</p>	<p>Association for the Prevention of Torture - was first established in 1977 as the Swiss Committee against Torture and later adopted its current name.</p> <p>With the adoption in 1987 of the European Convention for the Prevention of Torture, the organization expanded its activities at the international level, building on its successful experience at the regional level, and began to work in support of the improvement of the legal system, national preventive mechanisms, National human rights organizations, civil society and governments of countries to take effective measures to prevent torture and other forms of cruel, inhuman or degrading treatment.</p>
5	<p>European Commission - Human Rights Trust Fund</p> <p style="text-align: center;">/HRTF/</p>	<p>The HRTF was established in March 2008 as a joint initiative between Norway, the Council of Europe, and the Council of Europe Development Bank (CEB) in reaction to the Heads of State and Government of the Council of Europe who, at their Third Summit (Warsaw, 2005) stressed the obligation of all member States to accelerate and fully execute the judgments of the European Court of Human Rights. The HRTF allows the Council of Europe to support its member states in designing and implementing national measures required to execute the judgments of the European Court of Human Rights, to remedy the consequences of human rights violations, and stop repetitive applications before domestic courts.⁴</p>

6	<p style="text-align: center;">Human Rights Implementation Centre of the University of the Bristol</p> <p style="text-align: center;">/HRIC/</p>	<p>The Human Rights Implementation Centre (HRIC) was established in 2009, within the Law School of the University of Bristol, to enhance the implementation of human rights worldwide through research, education, and discussion. The Centre carries out a number of activities that aim to promote the implementation of the prohibition against torture and other ill-treatment under international law. In particular, the HRIC is recognized as one of the leading organizations working on the Optional Protocol to the UN Convention against Torture (OPCAT). The OPCAT seeks to prevent torture and other ill-treatment through the establishment of a system of regular visits to places where people are deprived of their liberty undertaken by a UN treaty body, the Subcommittee on the Prevention of Torture (SPT), and national bodies, National Preventive Mechanisms (NPMs).</p> <p>The HRIC's core activities in relation to the prevention of torture and other ill-treatment include:</p> <ul style="list-style-type: none"> -Conducting internationally recognized research into the designation and effective functioning of National Preventive Mechanisms -Holding international, regional, and national conferences and seminars to further understanding of how to prevent torture and other ill-treatment in practice -Working with and providing advice to governments, national human rights institutions, national preventive mechanisms (NPMs), and civil society organizations to assist with the designation and effective functioning of National Preventive Mechanisms in practice -Working with international and regional human rights bodies to strengthen the implementation of standards on the prohibition and prevention of torture and other ill-treatment -Providing submissions to international and regional processes to develop standards or interpret existing obligations to prohibit and prevent torture and other ill-treatment prevention -Providing advice to assist with the development of legislation aimed at criminalizing torture and other ill-treatment⁵
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7	<p>The World Organization Against Torture /SOS – Torture Network</p> <p>/OMCT/</p>	<p>The OMCT works with 200 member organizations to end torture and ill-treatment, assist victims, and protect human rights defenders at risk wherever they are. Together, OMCT makes up the largest global group actively standing up to torture in over 90 countries. OMCT works to protect the most vulnerable members of our societies, including women, children, indigenous peoples, migrants, and other marginalized communities. To achieve this, OMCT advocates with governments to change or implement their laws and policies, help victims seek justice, and strive to hold perpetrators to account.⁶</p>
8	<p>Centre for human rights and humanitarian law - Anti-Torture Initiative</p> <p>/ATI/</p>	<p>The Anti-Torture Initiative was founded in 2011 by former UN Special Rapporteur on Torture (2011-2016), professor of Human Rights Law, Juan E. Méndez, to expand the scope of work to combat and prevent torture, and to increase actual implementation and is a core project of the Center for Human Rights and Humanitarian Law. In a very short period of time, the organization’s strategies and approaches have had a profound impact on efforts to combat torture, deepen and expand the global anti-torture movement, and prevent it. As part of his former mandate as UN Special Rapporteur, Juan E. Méndez takes strategic interventions to help deliver country-specific activities through targeted advocacy, technical assistance, capacity-building training, and civil society engagement in the countries he visits.</p>
9	<p>Norwegian Human Rights Fund</p> <p>/NHRF/</p>	<p>The NHRF was founded in the initiation of Jan Egeland in 1988 and sprung out of Norwegian civil society, academia, and workers’ unions.</p> <p>The Norwegian Human Rights Fund (NHRF) works to protect and promote human rights internationally through direct support to organizations working in the first line of defense for human rights. The NHRF aims to be a flexible, courageous, and global actor that provides direct support to local organizations working for the rights of vulnerable and marginalized individuals and groups. In many cases, the NHRF supports affected communities and people on the ground in mobilizing and taking the lead in the struggle for their rights.⁷</p>
10	<p>International Federation For Human Rights</p> <p>/FIDH/</p>	<p>FIDH (International Federation for Human Rights) is an international human rights NGO federating 188 organizations from 116 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration of Human Rights. For FIDH, transforming societies relies on the work of local actors. Therefore, FIDH’s activities aim to reinforce their capacities and their influence. It acts at national, regional, and international levels in support of its member and partner organizations to address human rights abuses and consolidate democratic processes.⁸</p>

11	DIGNITY	<p>Founded in 1982, DIGNITY is one of the world’s first anti-torture NGOs and specialized treatment centers for torture survivors. For 40 years, DIGNITY has been a leading civil society force in the global fight against torture. We prevent torture and violence, rehabilitate traumatized victims and document serious human rights violations so the perpetrators are held accountable. DIGNITY is an independent human rights and development organization. DIGNITY’s vision is a world free of torture and cruel, inhuman, and degrading treatment.⁹</p>
12	<p>Human Rights Platform</p> <p>/HRP/</p>	<p>Human Rights Platform, sets an objective to ‘contribute to developing a more just, equitable, democratic, and inclusive society where human rights are not only respected but cherished’. For this purpose, the Human Rights Platform Project was launched in October 2021. Human Rights Platform Project is funded by the European Union and implemented by the Human Rights Platform Association. The Human Rights Platform, which is formed with the participation of seven right-based organizations operating in different thematic areas, based on Human Rights, carries out a joint struggle under the titles of “Monitoring, Reporting and Advocacy”, “Empowering People”, “Information, Awareness, and Capacity Building” and “Developing Collaborations and Partnerships”.</p> <p>The missions of the platform can be explained in detail as follows:</p> <ul style="list-style-type: none"> -Monitoring, Reporting, and Advocacy: It monitors, reports, and makes visible the implementation of human rights and freedoms, violations of rights, and advocates at local, regional, and international levels for the fulfillment of obligations. -Empowering People: Supports individuals and groups whose rights and freedoms are violated, who are or have the potential to be discriminated against; encourages and supports their self-advocacy. -Increasing Knowledge, Awareness, and Capacity: Follows human rights standards, developments, and discussions in the field, makes them visible, and increases knowledge and awareness; It strengthens the capacities of key actors such as decision-makers, public institutions, civil society, media, and academia on human rights, democracy, and rights-based issues. -Developing Collaborations and Partnerships: Establishes, facilitates, and supports a common agenda, learning from each other and solidarity with rights-based organizations working in different areas of human rights and freedoms; establishes and encourages collaborations and partnerships at international, regional, and local levels.¹⁰

Annex No. 2: Trainings organized within the framework of the National Preventive Mechanism of Torture, the organizations with which we cooperated, and the number of participants

№	Organizations and Events	Topic of training	Number of participants	Form of training
2022				
1	Series of trainings for the Lawyers	-"The National Preventive Mechanism of Torture"; -"Professional responsibility of a lawyer"	60 notaries	Cabinet training
2	Training and Research Center of the Prosecutor General's Office	-"Principles on Effective Interviewing for Investigations and Information Gathering" /Méndez Principles/	97 prosecutors	Online and cabinet combined training
3	Department for the Information, Analysis, and Operational Management Office of the National Police Agency Closed correctional unit No 461 under the General Executive Agency of Court Decision National Center for the Elderly National Center for Mental Health Court decision executive branches, Departments and Polices in provinces Gobisumber, Dundgobi, Umnugubi, Arkhangai, Bayankhongor, Gobi-Altai, Zavkhan, Uvurkhangai	-"The National Preventive Mechanism of Torture" -"The human right to be free from torture and inhuman treatment included in international treaties and conventions" -"The human right to be free from torture, inhuman treatment, and discrimination" -"The National Preventive Mechanism of Torture"	1,505 officials, civil servants, and social security specialist	Cabinet training

2023				
4	<p>Closed correctional unit No 407 under the General Executive Agency of Court Decision</p> <p>Closed correctional unit No 461 under the General Executive Agency of Court Decision</p>	<p>-”Introduction of the National Preventive Mechanism of Torture”</p> <p>“Issues of ensuring human rights to be free from torture, inhuman treatment, and discrimination”</p> <p>“The human right to be free from torture and inhuman treatment included in international treaties and conventions”</p> <p>“Communication and emotions”</p>	215 officials	Cabinet training
5	<p>Metropolitan Police Department</p> <p>Civil Society Council under the National Human Rights Commission</p>	<p>-”Introduction of the National Preventive Mechanism of Torture”</p> <p>“Issues of ensuring human rights to be free from torture, inhuman treatment, and discrimination”</p>	<p>50 officials</p> <p>15 members of the Civil Society Council under the National Human Rights Commission</p>	Cabinet training
6	<p>Discussion and meeting on “Prevention of Torture” in cooperation with the Prosecutor’s Office of the Chingeltei District</p>	<p>-”Introduction of the National Preventive Mechanism of Torture”</p> <p>“Some issues on the implementation of the Convention against Torture and its Optional Protocol”</p> <p>“Commitment and resolution of crimes of torture, illegal detention, and discrimination”</p> <p>Measures taken by the Police in the field of torture prevention and their results”</p>	<p>Prosecutors of Districts, investigators of the Department of Investigation, officials of the Security Department under the National Police Agency, 120 participants in total</p>	Cabinet training

7	Discussion on the topic of “Improving medical care and services for citizens who have lost the ability to behave due to excessive consumption of alcohol” organized by the Metropolitan Police Department	“Problems of ensuring human rights in police rehabilitation and temporary detention centers”	A total of 1200 participants including officials, civil servants of the Ministry of Justice and Internal Affairs, Ministry of Health, National Trauma Orthopedic Research Center, Department of Public Order and Public Safety, and Police offices in 6 districts and 21 provinces	Cabinet training
8	Training and discussion on the topic of “Ensuring human rights in infringement investigation and resolution” during a meeting and discussion on the same topic, organized by the Police Department of Bayanzurkh district	-”Ensuring human rights in infringement investigation and resolution”	95 officers authorized to investigate and resolve violations	Cabinet training
	TOTAL		3.357	

Article 7, Section 31 of the Law on the National Human Rights Commission of Mongolia:

31.4. The Commissioner in charge of the Prevention of Torture shall introduce his/her operational report to the Standing Committee on Justice within the 1st (first) quarter of each year and publish it.



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