

'WHERE SHOULD I GO FROM HERE?'

THE LEGACY OF THE
1 JULY 2008 RIOT IN MONGOLIA

AMNESTY
INTERNATIONAL



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Cover photo: Mass demonstration on 1 July 2008 in front of the Mongolian People's Revolutionary Party headquarters, Ulaanbaatar, Mongolia. © B.Byamba-Ochir/photo reporter/Onoodor (Today) Daily

Back cover top: The Mongolian People's Revolutionary Party headquarters which was set on fire when riots broke out on 1 July 2008. © Amnesty International

Back cover bottom: Denjiin Myanga Police Detention Facility, Ulaanbaatar, Mongolia, where many people were taken after the riot. © Amnesty International

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1. INTRODUCTION AND SUMMARY

“It is not acceptable for innocent people in any country to be shot dead by gunfire by police officers...if the incident was caused by high-ranking officials, they should be held responsible.”

Sh. Byambasuren, wife of Ts. Enkhbaatar who was fatally shot on 2 July 2008

On 1 July 2008 thousands¹ of people gathered in Sukhbaatar Square, Ulaanbaatar, Mongolia to protest allegations of widespread fraud in parliamentary elections held on 29 June. The riot on 1 July was unexpected and unexpectedly violent. Police arrested over 700 people on the night of 1 and 2 July and over 100 more were arrested in the weeks following, for suspected offences committed during the riot. At least nine people were shot by the police, four people fatally and a fifth person died allegedly from smoke inhalation. The headquarters of the ruling Mongolian People’s Revolutionary Party (MPRP) was destroyed by fire and protesters looted shops and commercial offices located on the first floor of the building. Police used truncheons, shields, tear gas, guns with rubber bullets and blanks, and live ammunition to disperse the crowds. The National Human Rights Commission of Mongolia also reported that police used “sprays with asphyxiant” and “electric truncheons”.²

The Government called the country’s first state of emergency since transitioning to a democratic system of government in 1990 for four days from midnight 2 July. During that time all TV and radio broadcasts were suspended except for state-funded media. Internet-based news services were largely unaffected but there were some interruptions to internet and mobile phone services. Police took hundreds of people to police detention centres where they were held in over-crowded cells without food or water for up to 72 hours. Police beat detainees while they were in custody including during interrogations to extract “confessions”.

Amnesty International is concerned that allegations of unnecessary and excessive use of force by police, torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) in detention have not been adequately or independently investigated. The large majority of complaints regarding human rights violations in the context of the 1 July riot have been dismissed by the State General Prosecutor’s Office with either inadequate or no investigation. There has been an investigation by the Special Investigation Unit of the State General Prosecutor’s Office into the use and authorization of live ammunition which left four people dead and five others seriously injured. Further procedures to initiate prosecution were

stalled until November 2009 because the defendants and their lawyers did not return the case files to the Special Investigation Unit. The original deadline to return the file was March 2009. This deadline was extended by one month but the case files were not returned at that time either. The National Police Agency informed Amnesty International that it had "conducted certain investigations" on the events of 1 July but further information on what or who was investigated and the outcomes of these investigations was not disclosed.³ Allegations of arbitrary and unlawful detention and unfair trials are beyond the scope of this report but Amnesty International is concerned that allegations of such violations are also not being investigated. The 1 July riot has left a legacy of ill-treatment, impunity and injustice in Mongolia.

Amnesty International calls on the Mongolian government to:

- Ensure that the Special Investigation Unit of the State General Prosecutors' Office is provided adequate funding and support to enable it to carry out prompt, independent, impartial and thorough investigations into allegations of offences involving human rights violations against officials and that procedures are in place to ensure that parties involved in the investigation are not able to stall or otherwise delay procedures unreasonably and prevent cases being prosecuted.
- Ensure that any complaints or reports of human rights violations are investigated promptly, independently, impartially and thoroughly, and that those suspected of related offences are prosecuted. Investigations should be conducted by personnel who are competent, impartial and independent of the alleged perpetrators and the agency they serve.
- Initiate a review of regulations, policy, and training to ensure that the practices of the police, including the use of force, in policing demonstrations are consistent with international human rights standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.
- Establish effective mechanisms to receive complaints, provide timely and accessible information on the progress of cases, and ensure that any person wishing to submit a complaint against law enforcement officials is not in any way obstructed from doing so. Where a complaint is rejected as inadmissible, the complainant should be given clear and detailed reasons for the decision, in writing, and information on appeals mechanisms and alternative avenues of recourse.
- Ensure that victims of crimes committed by law enforcement officials have access to an effective remedy and receive adequate reparation, including compensation, restitution, rehabilitation, and guarantees of non-repetition in accordance with international standards.

Amnesty International delegates travelled to Mongolia in July 2009. Delegates met with officials from the National Police Agency, the Office of the Capital City Governor, the Office of the President, the Special Investigation Unit of the State General Prosecutor's Office, the Supreme Court, Prison Officials, the National Human Rights Commission of Mongolia, national NGOs, family members of those who were killed, and people who were injured and their family members, and people arrested and detained. Amnesty International delegates visited two detention facilities, Denjiin Myanga and Gants Khudag, where people were taken following the riot. To protect the identities of certain people, their names have been changed.

2. PARLIAMENTARY ELECTIONS

The protests occurred on 1-2 July 2008 in Sukhbaatar Square, the main public square in Ulaanbaatar, against allegations of widespread fraud in the Parliamentary Elections held on 29 June.⁴ Under the Law on Election of the State Great Khural (Mongolian Parliament), parliamentary elections are held every 4 years.⁵ The State Great Khural comprises 76 seats, which are elected by popular vote. The Mongolian People’s Revolutionary Party (MPRP), the former ruling communist party, has won a majority in five out of the six parliamentary elections held since Mongolia’s transition to a democratic system of government in 1990.⁶ Since the transition to democracy, allegations of election fraud by all parties are not a new thing in Mongolia. However, until 2008, such allegations had not led to any outbreak of violence following either parliamentary or presidential elections. Peaceful demonstrations were also held in Darkhan, Erdenet and Uvs provinces (aimags) after the June 2008 elections.

The election results were officially announced on 14 July showing that the ruling MPRP had won 46 seats.⁷ The majority of the newly elected Members of Parliament were sworn in on 28 August 2008 after a month delay as opposition members continued to dispute the results.

There were no apparent warnings ahead of 1 July 2008 that the parliamentary elections might lead to an outbreak of violence. However, NGOs based in Mongolia including the Citizen’s Alliance and Coalition of the 1 July Riot noted that public anger about corruption levels in the government has been growing in recent years and led many to become frustrated and angry with the current government. Negotiations for the development of mining interests in Mongolia in a country where approximately one-third of the population live in poverty heightened the stakes.

WHAT ARE THE ALLEGATIONS?

Most of the allegations of fraud of parliamentary elections focused on events leading up to the Election. Amendments made to the Law on Election of the State Great Khural passed in 2005 met criticism that the law was not practical to implement and favoured the two main political parties over smaller parties and independent candidates. In 2007, the Constitutional Court found that the Speaker of the Parliament Ts. Nyamdorj had breached provisions of the Constitution of Mongolia by making edits to several laws after they had been passed by the State Great Khural.⁸ Although the Law on the Election of the State Great Khural was not cited in the court case, it was one of the Laws which was edited after being passed by the parliament. Ts. Nyamdorj resigned from his post as Speaker but no move was made to rectify the edits. On 27 December 2007 the Parliament announced that the 29 June 2008 parliamentary elections would be held under the edited version of the Law.⁹ Under these circumstances the legality and implementation of the election process was already the subject of controversy before the election had taken place.¹⁰ There were also allegations of vote buying and people using fake IDs to vote more than once on Election Day.

3. 1 JULY 2008 RIOT

OUTBREAK OF VIOLENCE

In the morning of 1 July 2008 thousands of people began gathering in Sukhbaatar Square. It is not clear if the gathering was spontaneous or organised; most people Amnesty International spoke to did not know in advance that a protest was going to be held while some media reports claimed that the protest (and violence) was organised in advance. According to the Office of the Capital City Governor, which provides permits for public events to be held in Sukhbaatar Square, an entertainment company had received permission to hold a youth concert in the Square on 1-2 July.¹¹ Two people interviewed told Amnesty International that their children had gone to the Square that evening to attend the concert, not a protest.¹² Violence broke out mid-afternoon and continued into the night.

Ts. Zandankhuu, who attended the protest, told Amnesty International:

"I arrived around 2:00pm and around 4:00pm things started to get violent. The people's anger had been accumulating for many years and it just exploded. [The violence] wasn't planned, it just happened."¹³

The headquarters of the MPRP was set on fire and protesters looted commercial shops and offices located on the ground floor of the same building. The Mongolian Modern Art Gallery, which is next door to the MPRP building, was partially destroyed. Several cars were destroyed by fire. Protestors threw stones at police officers and hit the police with wooden poles. Police assert that protesters also threw metal pipes.

F, who attended the demonstrations, told Amnesty International:

"When I arrived around 4:00-5:00pm there were few police. They began pulling people into the MPRP building so everyone got angry and started throwing stones. The police threw stones back. The police left the area at around 10:00pm and returned again after the State of Emergency was called at midnight."¹⁴

UNNECESSARY OR EXCESSIVE USE OF FORCE BY POLICE DURING THE STATE OF EMERGENCY

A State of Emergency was declared for the capital city of Ulaanbaatar at midnight on 2 July and lasted for four days. No measures were taken to inform the crowds who were still at Sukhbaatar Square that the State of Emergency had been declared. The State of Emergency authorised police to protect property; to forcefully disperse demonstrators; to inspect and restrict access for vehicles in the city centre; to forcefully disperse those who are using force to cause social disorder and seize their vehicles and weapons; and to temporarily confiscate equipment to stop activities of broadcast media, radio and TV, except for state-funded media. The sale of alcohol was banned and a curfew was announced from 10:00pm to 8:00am for four days in the centre of Ulaanbaatar.¹⁵ Although police were present during the daytime, the majority of instances of unnecessary and excessive use of force by police are alleged to have occurred after the government declared the State of Emergency.

When asked about the police actions during the 1 July riot, the Head of the Administration Department of the National Police Agency, Colonel Ts. Arvinbuudai, told Amnesty International:

"At first the police took no action to disband the crowds in accordance with people's right to express their opinion. However, after people in the demonstration began violating the rights of others, such as the right to public safety and property, the police took measures to stop the violence. In any country, the police don't just stand by when demonstrations turn violent."¹⁶

USE OF FORCE BY POLICE UNDER INTERNATIONAL LAW AND STANDARDS

International human rights standards strictly limit the circumstances and manner in which law enforcement officials may use force against persons. At the heart of these restrictions lies the state's duty to respect and protect the right of all persons to life and to freedom from torture and other cruel, inhuman or degrading treatment or punishment. Both these rights are provided in international human rights law and standards, including in treaties binding on Mongolia, and in particular the International Covenant on Civil and Political Rights (ICCPR).¹⁷ Under Article 4 of this Covenant, these rights cannot be restricted even "in time of public emergency which threatens the life of the nation." Mongolia is also a state party to the UN Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment, which prohibits torture and other ill-treatment in all circumstances.

Amnesty International recognizes that it is the responsibility of the Mongolian police to maintain public order, including bringing to justice those suspected of internationally recognizable criminal offences which occurred during the riot. However, this must be done strictly in line with international human rights standards on the use of force. The UN has developed a series of standards for applying these rules in practice.

The UN Code of Conduct for Law Enforcement Officials, Article 3, states that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. Law enforcement officials are required to "as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result."¹⁸

If the use of force and firearms is unavoidable, Principle 5 of the UN Basic Principles on Use of Force and Firearms states, among other things, that law enforcement officials must:

- "(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment".

International standards emphasise the importance of proportionality in judging whether the use of force is legitimate and strictly unavoidable. With regards to the use of firearms,

Principle 9 of the UN Basic Principles states that: "... officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury" or to prevent "a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger" and "only when less extreme means are insufficient to achieve these objectives". The article continues: "In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life".

Principle 7 also calls on governments to ensure that: "arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law". Governments and law enforcement agencies are further called upon to establish "effective reporting and review procedures" where injury or death is caused by the use of force and firearms by law enforcement officers. In cases of death and serious injury or other grave consequences, a detailed report must be sent promptly to the competent authorities responsible for administrative review and judicial control (Principle 22). An independent process, including a judicial process, is also guaranteed to persons affected by the use of force and firearms or their legal representatives (Principle 23).

POLICE EQUIPMENT AND TRAINING

During the riot, police were equipped with handcuffs, shields, helmets, truncheons, tear gas, and guns with rubber bullets and blanks as well as live ammunition to suppress the riots. The National Human Rights Commission of Mongolia also reported that police used "sprays with asphyxiate" and "electric truncheons".¹⁹

F, who attended the demonstration, told Amnesty International:

"The police were already standing outside the MPRP building when we arrived [around 4:00pm]. They were in two rows, the first row was in police clothes and the second row was in riot gear. There were also plain clothes police or intelligence officers in the crowd. There were more police around the side of the building with guns but also police without guns."²⁰

Not all police were armed or provided with equipment such as helmets and shields. Eye witness testimony, and information received from local NGOs reported that most police are inadequately trained in the use of equipment, and are not informed of the prohibition to use excessive or unnecessary force and the criminal liability that they may incur for arbitrary use of force. However, the Head of the Administration Department of the National Police Agency, Colonel Ts. Arvinbuudai informed Amnesty International that:

"Training covering measures of maintaining order during mass meetings and demonstrations, and procedures to use special equipment and weapons are held at the lectures of the Police Academy, and specialized training sessions are organized at police units, covering all police personnel, military forces as well as students."²¹

The UN Basic Principles requires that officers, including those engaged in crowd control, are trained and tested in the use of force and that those officers who are required to carry firearms are authorized to do so only upon completion of special training.²² In order to ensure that the use of force is only employed exceptionally and proportionally, police officers are to be trained in "peaceful settlement of conflicts, the understanding of crowd behaviour, and

the methods of persuasion, negotiation and mediation as well as to technical means, with a view to limiting the use of force and firearms."²³ Amnesty International was informed by a reliable source that those police who were given guns on the night of 1 July were not provided with any instructions on the use of firearms, including under what circumstances they could be fired or when lethal force could be applied.

ALLEGATIONS OF UNNECESSARY AND EXCESSIVE USE OF FORCE BY POLICE

According to the National Police Agency 358²⁴ police officers and soldiers sustained injuries during the riot, 63 were hospitalized²⁵ and 532 police officers were attacked in the course of carrying out their duties while 5 demonstrators were injured.

Police continue to deny that they used live ammunition during the riot. Amnesty International believes the number of demonstrators injured to be much higher than the figure given by the police based on testimony that police fired rubber bullets into the crowd and that police beat people with truncheons and kicked them at the time of arrest. All of the people who Amnesty International spoke with said that at the time they were injured they were bystanders or leaving the area and were unarmed. No one Amnesty International talked to who was injured by gunshots or rubber bullets during the riot recalled hearing any warnings from police before the shootings occurred.

According to "H", who was shot with a rubber bullet:

"As people were making to leave about 4 or 5 police officers would grab some people and start beating them with their truncheons and kicking them. Then everyone would come back. Some police had helmets, some didn't; all of them had weapons. There were police in uniform and some not in uniform who would go in among the demonstrators and drag people over to the police. It was obvious who they were because they ordered the police to take people away. When I was shot, there were lots of people also shot and wounded from rubber bullets.

"There was tear gas in the air and people were throwing stones and the police were throwing stones back. Because of the tear gas all the people were turning away and leaving. As I was running away I turned around to see what was going on and I was shot in the eye. I fainted when I was shot and when I woke up 2 people were helping me and took me to hospital."²⁶

According to D. Yanjinsuren, her son J. Batzaya was on his way home past Sukhbaatar Square around 9:00pm when he stopped to see what was happening. J. Batzaya told his mother that he was heading towards the bus to go home at midnight. She relayed to Amnesty International her son's account of what happened:

"Four or five police officers shot at him and he was shot in the right thigh. While he was on the ground, the police officers kicked him in the head. He called for help but the police told him, 'no-one wants to help you.' Then they left him bleeding and alone. Some people who were passing by in a car took him to the hospital. He has had three operations on his leg and he is still in hospital because the wound got infected. The doctors say that if things go badly they'll have to amputate."²⁷

As of 2 December 2009, J. Batzaya was still in hospital in Seoul, South Korea. The family has had to borrow money to cover the costs of his treatment.

L. Enkhbat's son, E. Enkhtur, was shot while he was walking to a bus stop. He was 16 at the time of being shot and told his father about his experience. According to L. Enkhbat:

"My son was heading toward the bus stop to come home and then people began yelling that the police were coming. He kept walking but then he fell over and saw that there was blood. He fainted after that and when he woke up, two guys made a splint for his leg and then got a taxi to take him to hospital. He was only 16 when he was shot."

Ts. Zandankhuu, who was arrested and taken to a police detention facility, told Amnesty International:

"I was arrested at around 1:00am just as I was heading home. I was beaten with a club. They hit me on my face with their clubs. They even used an electric-shock gun on me. I was beaten until I fainted. I was taken away in a car; none of my friends or family were notified of what happened to me."²⁸

At least 9 people were shot with live ammunition. According to local NGOs including the Citizen's Alliance and Coalition of the 1 July Riot and Law and Human Rights, which interviewed people who attended the riots, the number is eleven or even higher. Four people were killed from gunshot wounds. On 2 July 2008 the then acting Chief of Police, General Ch. Amarbold denied that any police used live ammunition. The National Police Agency continues to refute that the police used live ammunition during the riot.

According to D. Tungalag, the mother of E. Monk-Erdene, who was shot dead:

"The Mongolian news said that those shot were instigators and criminals but they were just on-lookers at the wrong place at the wrong time. My son has his ID card with him and his phone but we weren't notified of what happened to him. All information about the shootings has been kept hidden from us."²⁹

S. Ganbaatar allegedly died from smoke inhalation but his wife, A. Oyunbileg, told Amnesty International:

"I found the body of my husband at the forensic medical centre. He had lost lots of blood and the right side of his head was beaten in but the autopsy said that he died from smoke inhalation from the fire in the MPRP building. The police said that his body was found on the second floor and that they suspect he was going to steal a safe from the building. He was a well-known political activist...I do not believe their stories."³⁰

Principle 16 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions states that, "Families of the deceased and their legal representatives shall be informed of, and have access to any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been

determined, a notification of death shall be posted, and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation”.³¹

FOUR PEOPLE WERE KILLED DURING THE RIOT:

E. DORJSUREN

E. Dorjsuren, 24, a resident of Ulaanbaatar was staying with his cousin on 1 July. On 2 July at around 1:40am he was reportedly shot in the neck by police near the Capiron Bank in the city centre. After failing to show up for work the next day his family went looking for him. His parents located his body on 2 July in the morgue at around 10:00pm. An autopsy had been conducted without notice to or approval of the family.

E. MONKH-ERDENE

E. Monkherdene, 27, was reportedly shot at around 1.40 am on 2 July 2008. The family was not notified immediately of his death although he had his citizen ID on him. An autopsy was done without any notice to or approval of the family. His wife and son, who was 19 months old at the time of the shooting, are left behind.

TS. ENKHBAATAR

Ts. Enkhbaatar, 36 was visiting Ulaanbaatar from Dornod aimag to buy equipment for his company. He was on his way to his brother's house when he was reportedly chased by police and fatally shot in the back at around 1:00am on 2 July. The bullet passed through the right kidney and right lung.³² He was shot near Hospital #1 where he underwent emergency surgery but the doctors could not save him. An autopsy was carried out without any notice to or approval from the family.

“J”

An ambulance was called for “J”, 27 at 2:45am on 2 July. He had been shot in the abdomen. An autopsy was carried out without the families permission nor was the family able to receive a copy of the autopsy.

ATTACKS ON JOURNALISTS

Six journalists were injured during the riot including one photographer who underwent emergency surgery in Ulaanbaatar and a second operation in Seoul, South Korea to remove bone fragments from his brain after being beaten on the head by police. Globe International, an NGO in Mongolia, reported in their 2008 report on media freedom that journalists were beaten by police with sticks to prevent them filming and by protesters who thought they were working with the police.³³ Broadcast journalists wore jackets with logos of the stations they represent and print journalists wore identifying badges. The National Police Agency demanded journalists and TV Stations hand over all tapes of the riot, and then played the footage from the tapes on the Mongolian National Public Radio and Television (MNPRT) during the State of Emergency. When playing footage of the riot taken by journalists, the MNPRT added their own commentary to interpret the scenes being shown. The commentary reported that certain protesters shown in the footage as well as journalists, who were reporting events, were inciting violence. The tapes have not been returned to journalists.

4. ARBITRARY ARREST

Amnesty International is concerned that the rights of those arrested following the riots, both as provided in international law and in Mongolia's Constitution and laws, have been violated.

According to the National Police Agency, 731 people were arrested on the evening of 1 July 2008. Police 'confiscated' mobile phones and money, which were not returned, from those arrested. People were reportedly stacked into police vans to be taken to detention facilities around town. In the weeks following the riot, the police arrested approximately 100 more people for suspected offences committed during the riot, mostly theft, robbery and 'creating mass disorder'. The majority of those arrested were not informed upon arrest or subsequently of the reasons for their arrest or notified of their rights.

Ts. Zandankhuu told Amnesty International that he was arrested at 1:00am and beaten by police when he was arrested. He said:

"After the State of Emergency was called the police were running people down. When I was arrested, I wasn't given any chance to explain, I was just beaten."³⁴

According to T, whose husband, A, was arrested on the night of the riot:

"My husband went to [Sukhbaatar Square] after he finished work to see the demonstration. A stone hit him in the mouth so he found the ambulance and went to the Army Hospital. When he came out he was walking along the road and the police arrested him."³⁵

According to a representative from the Citizen's Alliance and Coalition of the 1 July Riot, a Mongolian NGO established in the wake of the 1 July riot to investigate allegations of human rights violations:

"Police were rounding up anyone that night. Then, if your family had good connections [the police] called your family and told them to come and get you released or if you were clever enough to talk your way out of it you were also released. The rest were taken to Denjiin Myanga [detention facility] where many of them were heavily beaten"³⁶

About half of those arrested on the night of 1 and 2 July were held overnight and released either unconditionally or on bail the following morning. Approximately 400 were transferred from the police stations after 24 hours or so and taken to Denjiin Myanga, a police detention facility. Others were taken directly to Denjiin Myanga after being arrested at Sukhbaatar Square. At Denjiin Myanga people were held between 72 hours and up to 14 days. Those formally charged were then transferred to Gants Khudag, a pre-trial detention centre. Despite meeting with officials of the National Police Agency, Supreme Court and Ministry of Justice and Home Affairs, Amnesty International was unable to obtain any official statistics on the number of arrests, how long people were detained and the number of people charged and transferred to Gants Khudag. Figures provided by the National Police Agency failed to clarify how many people were arrested on days subsequent to the 1 July riot for suspected offences

committed during the riot, how many were released without charge, how many were charged with crimes, and how many were found guilty. Local NGOs expressed concern that it is impossible to know if everyone who was arrested or shot that night has even been accounted for since there are no comprehensive records available.

Families of those arrested were not notified of where relatives were being held as is required under the Criminal Procedure Law. Families of those who did not return home on 2 July had to visit each of the prison stations and detention centres in town to learn if their relative was being detained inside. A police officer or guard would stand in front of the prison station or detention centre and call out the names of those who were being detained in that particular place. If the family member’s name was not called, the family would travel to the next detention centre to try there.

B was arrested and taken to a police station. His mother, O, told Amnesty International:

“My son did not arrive home that night, so I went to the detention centre on 2 July. It was very difficult for the families to find their family members. Police were calling names of the people arrested in the detention centre. I found my son at the Chingeltei District Detention Centre after searching for nearly a day.”³⁷

G was arrested on the night of the riot. He was sentenced to three years for ‘creating mass disorder’ under Article 179.1 of the Criminal Code. His mother, D, told Amnesty International:

“My son was supposed to go to my daughter’s house that night. The next day my daughter phoned me to say he never showed up. We guessed that he might be among those arrested so we visited the detention centres until we heard his name. We weren’t allowed to see him until 3 days later when he was transferred to Gants Khudag [pre-trial detention centre]. Then after he was sentenced he was transferred again this time to a prison in Khentii province but we only found out after phoning Gants Khudag.”³⁸

Under Article 9 of the ICCPR “no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Victims of unlawful arrest or detention must have an enforceable right to compensation.

The Article provides, among other things, that anyone arrested must be:

- informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
- if charged, to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release.
- to take proceedings before a court, in order that the court may decide without delay on the lawfulness of detention and order his or her release if the detention is not lawful.

In addition, Principle 15 of the UN Body of Principles for the Protection of All Persons under

Any Form of Detention or Imprisonment, provides that "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."³⁹

The Constitution of Mongolia provides that "...No-one shall be searched, arrested, detained, persecuted or restricted of liberty save in accordance with procedures and grounds determined by law...Where a person is arrested his/her family and counsel shall be notified within a period of time established by law of the reasons for and grounds of the arrest".⁴⁰

Article 61 of the Criminal Procedural Code provides, "an inquiry officer or investigator shall notify within 24 hours [an] adult member of a suspect's family or relatives or defence counsel about arrest of the suspect, and his/her whereabouts or shall allow the person being arrested to notify himself/herself."⁴¹

5. TORTURE AND OTHER ILL-TREATMENT OF DETAINEES

Detention centres were inevitably heavily overcrowded due to the large number of arrests made in a short space of time and the lack of facilities to deal with such an unprecedented situation. People were taken to one of 16 police stations located around Ulaanbaatar. Amnesty International heard allegations of torture and other ill-treatment at the detention centres which constitute cruel, inhuman or degrading treatment including lack of access to food, water and toilets for 48 to 72 hours and allegations of torture and other ill-treatment during interrogations. Food and water were only provided to detainees after delegates from the National Human Rights Commission of Mongolia, Members of Parliament, a journalist, officials from the State General Prosecutor's Office and lawyers began visiting the detention facilities to inspect conditions.

Most of the allegations of torture and other ill-treatment in detention conveyed to Amnesty International occurred at Denjiin Myanga detention facility, Chingeltei District, Ulaanbaatar.⁴² Denjiin Myanga is under the National Police Agency, unlike other detention centres which are under the General Executive Agency of Court Decision. As noted above, many of those who were arrested on 1 and 2 July and over subsequent days and who were not released within 24 hours, were taken to Denjiin Myanga where they were interrogated by police before being released, released on bail, or charged and transferred to Gants Khudag, a pre-trial detention centre.

The capacity of Denjiin Myanga is approximately 150 inmates. It is estimated that over 400 were held in Denjiin Myanga following the 1 July riot. People were crowded into cells until there was no room to sit or lie down. When the cells couldn't fit anymore, people were forced to sleep outdoors in the rain or in the garage out in the yard.

In a survey by the National Human Rights Commission of Mongolia of 100 people detained following 1 July, 88 answered that they were beaten, assaulted or pressured during arrest and interrogation.⁴³ A representative from Law and Human Rights, an NGO in Mongolia which

took up cases of 143 people who were arrested and charged told Amnesty International:

"We found that testimonies were given to police under torture. Police told people that the President had granted them the right to shoot them if they didn't cooperate. [The police] would round up people and take them away in a van to show to others they were serious."⁴⁴

According to Ts. Zandankhuu, who was held at Denjiin Myanga:

"The cell had capacity for about 20-30 people but there was about 100 of us in that room...we had no water or food for 72 hours. We weren't allowed to go to the toilet. Finally people began drinking their own urine. Eventually it started raining so they drank some raindrops [that leaked into the room].

"During my interrogation nothing was done in accordance with the law, there were no lawyers. I was interrogated outside and forced on my knees; others around me were forced to squat with their hands behind their head. I was interrogated for about an hour. They beat me and told me lies. I asked for a lawyer but they asked, "Why do you need a lawyer?" Eventually the investigator got tired so he wrote down that I threw 2 rocks and told me that if there was no evidence that this was true I would get off so I should sign it. I signed it, but it was all lies."⁴⁵

The "confession" signed under these circumstances was then used as evidence in court during Ts. Zandankhuu's trial.

Ts. Zandankhuu faced three charges of robbery (Article 147.3 of the Criminal Code), 'intentional damage or destruction of property' (Article 153.2), 'creating mass disorder' (Article 179.1), and 'resisting of a state official or a public order public inspector' (Article 230.3). He was sentenced to five years but later had his sentence reduced to 6 months after appealing.

G told his mother, D, of his experience in detention. D told Amnesty International:

"My son and his friends were at the riot. A rock flew at them so he picked it up and threw it back. The police arrested him and he was taken to [Denjiin Myanga]. He was beaten during interrogation and told to admit that he had committed robbery. He was told that he'd be released if he confessed."⁴⁶

G did not have access to a lawyer while in detention or during the interrogation. He was sentenced to three years imprisonment under article 179.1 for 'creating mass disorder'. He is being held in prison in Khentii province.

TORTURE AND OTHER ILL-TREATMENT UNDER INTERNATIONAL AND NATIONAL LAW

Under international law the prohibition on torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) is absolute, and as noted, cannot be derogated from in times of emergency. Under Article 7 of the ICCPR, "no one shall be subjected to torture and other forms of ill-treatment."

Under Article 2(2) of the UN Convention Against Torture, "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

The Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles) states that, "all persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person."⁴⁷

Under the existing Criminal Code of Mongolia, torture is not defined in accordance with the definition under the UN Convention Against Torture.⁴⁸ In his report following a visit to Mongolia, the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment remarked:

"Despite the fact that reference is made to "torture" in various legislative and regulatory instruments, Mongolian law does not define the term in accordance with article 1 of the Convention, failing to include the essential elements that the act (or omission) causes severe pain or suffering (physical or mental); is intentionally inflicted for a specific purpose; and by or at the instigation of or with the consent or acquiescence of a public official acting in an official capacity. Moreover, the main provision in the Criminal Code referring to torture, article 100.1, carries a relatively lenient penalty of up to two years' imprisonment."⁴⁹

A new draft criminal code is being considered by the Great State Khural however, the draft version also does not currently include a definition of torture that meets international standards.

PROTESTING TREATMENT OF DETAINEES

A. Saruul, Head of the National Green Party, and G. Arslan, Head of the Just Society Front for Civil Movement, began a non-violent sit-in protest in Sukhbaatar Square on 30 July to protest the Government reaction to the 1 July riot and treatment of detainees. Under the Law on Assembly and Demonstration the Governor must inform those registering to hold a demonstration within 3 days whether the demonstration is allowed to proceed. Over the next five days 10 to 40 people joined the protest each day, including families of those injured and killed.

A. Saruul told Amnesty International:

"After 1 July no-one was speaking out about what had happened. We informed the Ulaanbaatar Police, local police and City Administration in writing of our intention to hold a sit down protest. We didn't get any response until after we started the sitting protest. Then we got a response that what we were doing was not allowed. But there is no law against sitting in a public Square."

The Office of the Capital City Governor told Amnesty International that A. Saruul and G. Arslan did not register their intention to hold a sit-down protest in the Square. A. Saruul and G. Arslan were arrested for protesting without permission and sentenced by the Sukhbaatar District Court to 14 days imprisonment for violating the Law on Demonstration and Assembly Procedures. They were imprisoned for 14 days at Denjiin Myanga.

Article 21 of the ICCPR recognized that the state is permitted to restrict the exercise of the right to freedom of

peaceful assembly if the restrictions are in conformity of the law and necessary and proportionate for a defined and limited number of grounds (national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedom of others).

The authorities have not provided adequate information to sustain that the measures taken against the peaceful sit-in protest were necessary and proportional on the grounds mentioned above. Amnesty International is concerned that the rights of A. Saruul and G. Arslan to freedom of peaceful assembly and freedom of expression, provided in Articles 21 and 19 (respectively) of the ICCPR were violated.

6. FAILURE TO INVESTIGATE COMPLAINTS

Complaints can be made to the Prosecutor’s Office, the National Human Rights Commission of Mongolia (NHRCM), or to the courts. Between 1 July 2008 and July 2009 out of a total of 10 complaints made to the NHRCM, 3-4 were allegations of torture. O. Magnai complained to the NHRCM on the grounds of illegal detention. All complaints made to the NHRCM were passed to the Prosecutor’s Office where they were reportedly dismissed for lack of evidence. The NHRCM also told Amnesty International that the Prosecutor’s Office received 11 complaints directly but these were also all dismissed. According to their report on the 1 July riot, the NHRCM requested the Prosecutor’s Office to provide information on why these cases were dismissed but the request was denied.⁵⁰

Ts. Zandankhuu visited the National Human Rights Commission of Mongolia on 30 August 2008. He also visited the Khan-Uul district Prosecutors’ Office on 30 June and 20 July 2009 and the Capital City Prosecutors’ Office on 8 October 2009, and told Amnesty International:

“I made a complaint to the prosecution but it was ignored. I later learnt that the prosecution can’t ignore such a complaint, they have to investigate, but they never did. Instead the Prosecutor’s Office just told me that they would not commit the kind of crimes that I was complaining about and that I was making up stories. I wasn’t the only one who complained.”⁵¹

The Citizen’s Coalition of the 1 July riot told Amnesty International that many other people who were in a position to make complaints were either unaware of their right to make a complaint or too scared to do so. During the course of its research Amnesty International found that people were not fully informed of their rights or were unaware that the Prosecutor’s Office must investigate any allegations of torture and ill-treatment by officials.

A Working Group under the Parliamentary Sub-Committee on Human Rights was established on 1 July 2009. The Working Group comprises four members, two from each of the main parties, the Democratic Party and the MPRP. The Working Group’s mandate is to investigate allegations that people were subject to torture and other ill-treatment, violations on the right to a fair trial, and allegations of illegal detention due to breaches of the Criminal Procedures

Code in the specific context of the 1 July riot. To carry out this work the Working Group requested information from the public, NGOs, lawyers and public offices. This is the first time for a Parliamentary Working Group to request information from such sources and as such there are no legal norms or guidelines on how this should proceed or powers for ensuring compliance of any of the Working Group's requests or any recommendations it may make.

The Working Group's agenda is to hold a public hearing to hear testimony from citizens, lawyers, NGOs and public officials and to then submit a report based on the findings to the plenary session in Parliament with recommendations to address violations. The hearing was held on 2 December 2009. Once the report has been written, following the public hearing, it must be passed by the Parliamentary Sub-Committee on Human Rights and the Permanent Committee on Laws. The Permanent Committee on Law will then decide whether to submit the report to a full Parliamentary session or not.

Under international law and standards, all reasonable allegations of unlawful killings, torture and other ill-treatment and other serious human rights violations must be investigated. This obligation reflects both the duty of states to ensure reparations to victims of human rights violations, including disclosure of the truth, and their general duty to protect human rights, including by holding perpetrators of violations to account and taking steps to ensure that such violations are not repeated.

Under Article 2(3) of the ICCPR, states parties undertake, among other things, to ensure an “effective remedy” for persons whose Covenant rights have been violated. The Human Rights Committee, in its authoritative General Comment on Article 2, has referred to a “general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies” and added that “failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”⁵² The Committee also stated that where such investigations “reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant.” It added that the obligations to investigate and prosecute “arise notably in respect of those violations recognized as criminal under either domestic or international law,” including “summary and arbitrary killing.”⁵³

Similarly, Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions⁵⁴ states that: “There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death ... It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses.” Principle 18 states that perpetrators shall be brought to justice. Principle 20 calls for the families and dependents of victims of such executions shall be entitled to fair and adequate compensation, within a reasonable period of time.

The same legal principles apply to torture. According to Article 12 of the Convention Against Torture “Each State Party shall ensure that its competent authorities proceed to a prompt

and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed”.⁵⁵ The UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Principles for Documentation of Torture) provide guidance for countries in their efforts to combat torture. Principle 2 states that “States shall ensure that complaints and reports of torture and ill-treatment are promptly and effectively investigated...The investigators, who shall be independent of the suspected perpetrators and the agency they serve, shall be competent and impartial.”⁵⁶

Following his visit to Mongolia in 2005 the UN Special Rapporteur on torture observed that there is “a basic lack of awareness and understanding of the international standards relating to the prohibition of torture, which by itself serves to limit inquiries into allegations of torture...While a legal framework for victims to make complaints and have them addressed currently exists, this system does not work in practice.”⁵⁷ He recommended, among other things, that: “All allegations of torture and ill-treatment be promptly and thoroughly investigated by an independent authority with no connection to that investigating or prosecuting the case against the alleged victim.”⁵⁸

In February 2008, the Special Rapporteur noted that no information had been forthcoming from the Government of Mongolia regarding recommendations made following his 2005 visit.⁵⁹ In February 2009, the Special Rapporteur noted that there was still no response from the Government of Mongolia.⁶⁰

7. INVESTIGATION INTO THE USE AND AUTHORIZATION OF LIVE AMMUNITION

On 4 July 2008 the Special Investigation Unit of the State General Prosecutor’s Office (Prosecutor’s Office) began investigating the use of live ammunition by police that left four people dead and five others severely wounded. The Special Investigation Unit is an independent investigation agency under the Prosecutor’s Office whose main function is to investigate complaints against officials such as prosecutors, judges, inquiry officers, intelligence officers and law enforcement officials. All cases investigated by the Special Investigation Unit must be referred to them by the Prosecutor’s Office. The Special Investigation Unit has powers to conduct investigations, including summon witnesses and suspects and carry out interrogations. The Special Investigation Unit carries out the investigation but deciding the charge that will be brought against any individual is the purview of the Prosecutor’s Office.

The Special Investigation Unit opened a case to investigate ten police officers suspected of carrying out the shootings with live ammunition. Amnesty International has been informed by reliable sources that the investigation found that the police did use live ammunition and that those who received the guns and carried out the shootings did not receive any instructions on

the use of firearms and lacked training regarding the consequences of using them. Four senior police officials – the Chief of Police, the Chief of the Metropolitan Police, and the Heads of the Units for Patrol and Public Order - were then investigated for their role in authorizing the use of live ammunition.

The investigation was completed on 15 February 2009 and the case file, comprising 25 volumes, was made available to the defendants and their lawyers. They were given one month to read the file before it was to be sent to the families and lawyers of the complainants and then to the Prosecutor’s Office. However, the defendants and their lawyers did not return the case files until November 2009, stating they needed more time. There is no apparent enforcement mechanism to prevent this type of delay. According to the Special Investigation Unit, the case can only proceed after the defendants and their lawyers return the case file.⁶¹ The case file was passed onto the families of victims and their lawyers in November. Only after the case file is transferred to the Prosecutor’s Office and the charges formally brought against the suspects can it be determined if the defendants will face trial or if they will be covered by the recent Amnesty Law (see below).

THE AMNESTY LAW

On 9 July 2009 the Parliament passed an Amnesty Law. Over 2,192 people have been released under the law since it was passed. The Law covers minor crimes and misdemeanours committed before 24 June 2009. However, other details such as which individuals and which crimes it covers have not been disclosed. Cases eligible for the Amnesty Law that were in pre-trial or trial stage were closed.⁶² Included in the Amnesty Law were the majority of civilians still detained for crimes committed during the 1 July riot.⁶³ It is unclear yet if the ten police officers and four senior police officials will be covered by the Amnesty Law until their case is transferred to the Prosecutor’s Office and if formal charges are levelled. If they are eligible for the Amnesty Law it means that their cases may never go to court nor will the findings of the investigation be made public.

AMNESTY GRANTED FOR O. MAGNAI

O. Magnai, Vice Chairperson of the Civil Movement Party, was facing charges of ‘banditry’ (Article 177) and ‘creating mass disorder’ (Article 179) in the Criminal Code for suspected offences committed during the 1 July riot. The crime of banditry carries a sentence of 20-25 years or the death penalty. In July 2009 charges under article 177 were dropped by order of the Prosecution. Charges under article 179 were subject to the Amnesty Law and he faces no further charges. Magnai’s case was highlighted in the Amnesty International Annual Report for 2008.

APOLOGY AND REPARATIONS

A few days after the shootings, the family members of each of those killed received compensation of one million tugrik (MNT) (US\$701.75) from the Mongolian government for funeral expenses. Families received a further MNT100,000 (US\$70.18) from either the President’s Office or from the Governor’s Office of the province for those who were not residents of Ulaanbaatar. However, this should not prejudice their right to take civil or any other legal action against the government or specific officials. Nor can the compensation replace investigation and prosecution of suspected perpetrators in accordance with international law and standards.

The Government has proposed further compensation to family members of those who were killed or injured by live ammunition however, family members of those fatally shot or injured by live ammunition all told Amnesty International that they had not been officially approached about compensation or consulted. J. Batzaya’s brother, J. Batsuren, told Amnesty International:

“The compensation they are suggesting is MNT10 million. This can’t cover the full medical cost and we will reject the money because it is not enough. In Mongolia the morin khuur (a traditional horse-headed musical instrument) is officially valued at MNT 250 million but a human life is worth much less. We sent a letter to the Parliament, President and Prime Minister on 17 July 2009 and we also started a hunger strike on that day. We were told that the compensation has been approved by Parliament so there is now nothing that we can do about it.”⁶⁴

J. Batzuya has undergone three operations and has been in hospital for over a year. Others, including J. Batzuya and E. Enkhtur, who were shot and wounded have undergone surgery and treatment either in Mongolia or abroad. The costs are being met by donations, their families or borrowed from relatives.

From 16 – 23 July, J. Batzaya’s brother, J. Batsuren, E. Dorjsuren’s father, Ts. Enkhbayar and Ts. Enkhbaatar’s wife, Sh. Byambasuren went on hunger strike beside the State House where the Parliament, President and Prime Minister’s offices are located. They were taken away on 23 July at 10:00pm and taken to hospital. J. Batsuren told Amnesty International that Ts. Enkhbayar, L. Enkhbat, father of E. Enkhtur and E. Monk-Erdene’s mother, D. Tungalag, would begin another hunger strike on 29 July. The hunger strike ended on 19 August after the President agreed to meet the family members of those shot and injured from live ammunition.⁶⁵

E. Dorjsuren’s father, Ts. Enkhbayar, told Amnesty International:

“Our situation is desperate. We have sent letters asking for apology, compensation and to request an appointment ...We would like to receive compensation in accordance with international standards.”⁶⁶

The right to reparations is enshrined in human rights treaties, including Article 2(3) of the International Covenant of Civil and Political Rights (ICCPR) which provides that each State Party undertakes:

“(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy”.⁶⁷

The concept of reparations has been elaborated in several international standards.⁶⁸ Under

these standards, reparations to victims and survivors of human rights violations include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

- **Restitution**, for instance release (of detainees and prisoners), restoration of legal rights and return of property;
- **Compensation**, including for physical or mental harm, lost opportunities, harm to reputation or dignity and legal and medical costs
- **Rehabilitation**, including medical and psychological care, legal and social services, and social reintegration
- **Satisfaction**, including cessation of continued violations, disclosure of the truth (without causing further harm), search for victims who have been forcibly disappeared or killed, and an apology for the wrong done.
- **Guarantees of non-repetition**, including steps to ensure effective civilian control of military and security forces and that all civilian and military proceedings abide by international standards of due process, fairness and impartiality, and strengthening the independence of the judiciary

Reparations are one of several elements of justice which should also include prosecution of those suspected of committing human rights-related offences, and legal, administrative and measures to prevent such violations recurring.

8. LEGACY OF THE 1 JULY RIOT

The 1 July riot has left a legacy of ill-treatment, impunity and injustice. The events of 1 July 2008 were in sad contrast to progress that Mongolia has made in recent years in improving human rights. By failing to address allegations of human rights violations including unnecessary and excessive use of force by police, arbitrary arrests, and torture and other ill-treatment, Mongolia has failed to comply with its international obligations which require them to take a range of legislative, judicial, administrative and other measures to prevent human rights violations, bring those responsible to justice and ensure victims receive reparations in line with international standards.

Amnesty International recognizes that it is the responsibility of the Mongolian police to maintain public order, including bringing to justice those suspected of internationally recognizable criminal offences. However, this must be done strictly in line with international human rights standards on the use of force.

Amnesty International has consistently raised concerns regarding systematic torture and ill-treatment in Mongolia in police stations and pre-trial detention centres.⁶⁹ Failure to adequately investigate allegations of torture, impunity for law enforcement officials, and failure to provide justice and reparations to victims of human rights violations have also been raised by Amnesty International in previous years. However, NGOs and individuals

interviewed for this report emphasized that following the 1 July riot law enforcement officials have gained confidence that they could commit human rights abuses without fear of reprisals. They also referred to a growing pattern of self-censorship among media and citizens, who are afraid of police intimidation and harassment since the 1 July riot.

The secrecy surrounding the operations of police and other law enforcement agencies is further damaging the reputation of the police and other law enforcement agencies. In the absence of an independent and thorough investigation into the events surrounding the 1 July riot, rumours continue to substitute for truth and facts. This inevitably leads to mistrust and fear of the police and law enforcement agencies. Such sentiments will persist as long as the authorities fail to take concrete steps to conduct independent investigations and prosecute any alleged perpetrators of offences involving human rights violations, and implement reforms to ensure non-repetition.

9. RECOMMENDATIONS

The recommendations below are addressed to relevant authorities who are responsible for regulating the conduct of law enforcement officials. Amnesty International believes that implementation of these recommendations would move Mongolia toward preventing unlawful killings, torture and other ill-treatment, unnecessary and excessive use of force by law enforcement officials as well as fighting impunity and ensuring non-repetition of such serious human rights violations.

To the Mongolian government:

- Deliver a clear message to law enforcement officials as well as the general public, and instruct senior law enforcement officials to do the same, that unnecessary and excessive use of force, and torture and other ill-treatment are absolutely prohibited in all circumstances and will be subject to criminal and disciplinary investigation and prosecution.
- Take immediate action to implement the recommendations of experts regarding the prevention and punishment of torture and other ill-treatment, including those of the UN Special Rapporteur on torture and cruel, inhuman and degrading treatment or punishment.
- Take measures to strengthen the independence and capacity of the National Human Rights Commission including ensuring capacity and powers to address allegations of torture by ensuring measures of redress and rehabilitation are taken in appropriate cases.
- Ensure that the Special Investigation Unit of the State General Prosecutors' Office is provided adequate funding and support to enable it to carry out prompt, independent, impartial and thorough investigations into allegations of offences involving human rights violations against officials and that procedures are in place to ensure that parties involved in the investigation are not able to stall or otherwise delay procedures unreasonably and prevent cases being prosecuted.
- Immediately begin preparation and submit without further delay all overdue reports to UN treaty monitoring bodies.

To members of the Great State Khural:

- Amend the Criminal Code to define torture as a crime in accordance with its definition in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including abolishing or revising article 44.1 so that there is no impunity for human rights violations.
- Ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Make public the report and findings of the Working Group under the Parliamentary Sub-Committee on Human Rights and follow up on the recommendations made by the Working Group to ensure that they are promptly and effectively implemented.

To the National Police Agency:

- Initiate a review of regulations, policy, and training to ensure that the practices of the police, including the use of force, in policing demonstrations are consistent with international human rights standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.
- Ensure that police are trained to refrain from using force, except in exceptional circumstances as set out in the UN Basic Principles on the Use of Force and Firearms and other international standards. All police officers should be made aware through the chain of command that excessive use of force or other violation of human rights will result in investigation and corresponding sanctions.
- Ensure that only those law enforcement officials who are trained in the use of equipment that involves use of force such as tear gas, truncheons, electro-shock equipment, guns with rubber and/or live ammunition are authorised to handle such equipment.
- Alert the prosecuting authorities to any complaints or reports of possible criminal conduct involving human rights violations by law enforcement officials. Such officials should be suspended from any position where they may repeat the violations or otherwise obstruct the investigation. Where appropriate, disciplinary proceedings should also be initiated.
- Take urgent steps to introduce video and audio monitoring and recording of all interrogations and covering any other areas where torture or other ill-treatment are likely to occur. These recordings must be kept in a secure facility for a reasonable period of time in order to ensure they are available for viewing by investigators if required.

To the State General Prosecutor's Office:

- Ensure that any complaints or reports of human rights violations are investigated promptly, independently, impartially and thoroughly, and that those suspected of related offences are prosecuted. Investigations should be conducted by personnel who are competent, impartial and independent of the alleged perpetrators and the agency they serve.
- Establish effective mechanisms to receive complaints, provide timely and accessible information on the progress of cases, and ensure that any person wishing to submit a complaint against law enforcement officials is not in any way obstructed from doing so. Where a complaint is rejected as inadmissible, the complainant should be given clear and detailed reasons for the decision, in writing, and information on appeals mechanisms and alternative avenues of recourse.

- Ensure that complainants, witnesses, lawyers and others involved in the investigation are protected from intimidation and reprisals.

To the Judicial Authorities:

- Ensure that any statement which is established to have been made as a result of torture or other ill-treatment is not invoked as evidence in any proceedings, except against a person accused of torture or other ill-treatment, as evidence that the statement was made.
- Ensure that victims of crimes committed by law enforcement officials have access to an effective remedy and receive adequate reparation, including restitution, compensation, rehabilitation, and guarantees of non-repetition in accordance with international standards.

To the International Community:

- Provide technical and financial support to the development of regulations, policy, and training to ensure that the practices of the police, including the use of force, in policing demonstrations are consistent with international human rights standards.
- Provide technical and financial support to the Special Investigation Unit of the State General Prosecutors Office and the National Human Rights Commission of Mongolia to ensure that they have the capacity and resources necessary to fulfil the duties as prescribed in the mandates of these institutions.

ENDNOTES

¹ Government sources say approximately 8 thousand people attended the protest while local NGOs such as the Citizen's Coalition for the 1 July Rights and Liberty Centre, estimate the number to be approximately 20,000.

² National Human Rights Commission of Mongolia (NHRCM), "*Public Disorder That Broke Out in Ulaanbaatar, Capital City, and Human Rights*", 2008, pp15-16.

³ Letter to Amnesty International from Police Colonel Ts. Arvinbuudai, Head of Secretariat, General Police Department, National Police Agency, dated 17 September 2009, (Ref. No: 3/3733).

⁴ Amnesty International does not take a position on whether any particular election is free or fair.

⁵ Parliamentary elections were held in 1990, 1992, 1996, 2000, 2004 and 2008. See International Parliamentary Union http://www.ipu.org/parline-e/reports/2219_arc.htm.

⁶ The MPRP lost the 1996 parliamentary election.

⁷ The MPRP won 46 seats, the Democratic Party won 27 seats, Civil Will Party won 1 seat, Civil Coalition Party won 1 seat and 1 seat was won by an independent.

⁸ Constitutional Court Judgement #06, May 23 2007.

⁹ Resolution of the State Great Khural #98, 27 December 2007.

¹⁰ On Election Day, the General Election Commission (GEC) was unable to finalise voter registration lists in time for the election and notified citizens that they could present their national ID at polling booths in order to vote. On 5 January 2009, the Supreme Court found the Chair of the GEC guilty of violating the Law on Election of the Great State Khural and the Law on the Central Election Body.

¹¹ Email to Amnesty International from the Office of the Capital City Governor, Deputy City Mayor Ts. Tsogzolmaa, dated 11 September 2009.

¹² One parent whose child had been shot told Amnesty International that the media had harshly criticised families for letting their children attend a violent protest. He wanted to clarify that he and many other parents allowed their children out that night because there was supposed to be a summer concert in Sukhbaatar Square that night. Amnesty International's interview with L. Enkhbat, 28 July 2009.

¹³ Amnesty International's interview with Ts. Zandankhuu, 27 July 2009.

¹⁴ Amnesty International's interview with F, 20 July 2009.

¹⁵ Declaration of State of Emergency, Presidential Decree Number 194, 1 July 2008.

¹⁶ Amnesty International's interview with Police Colonel Ts. Arvinbuudai, Head of the Administration Department, National Police Agency, 21 July 2009.

¹⁷ Articles 6 (right to life) and 7 (freedom from torture and other ill-treatment) of the ICCPR.

¹⁸ Principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles), adopted by the Eighth United Nations Congress on the Prevention of Crime and

the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.
(<http://www2.ohchr.org/english/law/firearms.htm>).

¹⁹ National Human Rights Commission of Mongolia (NHRCM), "*Public Disorder That Broke Out in Ulaanbaatar, Capital City, and Human Rights*", 2008, pp15-16.

²⁰ Amnesty International's interview with F, 20 July 2009.

²¹ Letter to Amnesty International from Police Colonel Ts. Arvinbuudai, Head of Secretariat, National Police Agency dated 17 September 2009, (Ref. No: 3/3733).

²² UN Basic Principles, Principle 19.

²³ UN Basic Principles, Principles 18 & 20.

²⁴ In contradiction, a letter sent to Amnesty International Mongolia from Police Colonel A. Dulaanjargal, Deputy Head of the Administration Department, General Police Department of Mongolia, dated 12 September 2008 reported that 471 police officers were injured in the 1 July riot.

²⁵ Letter to Amnesty International from Police Colonel Ts. Arvinbuudai, Head of the Administration Department, National Police Agency, dated 17 September 2009, (Ref. No: 3/3733).

²⁶ Amnesty International's interview with H, 28 July 2009.

²⁷ Amnesty International's interview with D. Yanjinsuren and J. Batsuren, the mother and brother of J. Batzaya, 28 July 2009. As a result of his injury J. Batzaya has lost his ability to work by 70% which makes him legally disabled.

²⁸ Amnesty International's interview with Ts. Zandankhuu, 27 July 2009.

²⁹ Amnesty International's interview with D. Tungalag, mother of E. Monk-Erdene, 28 July 2009.

³⁰ Amnesty International Mongolia's interview with A. Oyunbileg, wife of S. Ganbaatar, 17 July 2008.

³¹ Principle 16 of the UN Basic Principles the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989. (<http://www2.ohchr.org/english/law/executions.htm>).

³² Letter to Amnesty International from Sh. Byambasuren, wife of Ts. Enkhbaatar, 14 July 2008.

³³ Globe International, Mongolia Report, 2008, p13.

³⁴ Amnesty International's interview with Ts. Zandankhuu, 27 July 2009.

³⁵ Amnesty International Mongolia's interview with T, wife of A, 17 July 2008.

³⁶ Amnesty International's interview with the Citizen's Coalition of the 1 July Riot, 20 July 2009.

³⁷ Amnesty International Mongolia's interview with O, mother of B, 17 July 2008.

³⁸ Amnesty International's interview with D, mother of G, 27 July 2009.

³⁹ UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988.

⁴⁰ Constitution of Mongolia, Article 16(13).

⁴¹ Criminal Procedure Law of Mongolia, Article 61.

⁴² Amnesty International visited Denjiin Myanga on 22 July 2009. The Head and other officials in the Centre had been replaced in recent months and the new Head wanted to emphasise to Amnesty International that things had changed since 1 July.

⁴³ National Human Rights Commission of Mongolia (NHRCM), "*Public Disorder That Broke Out in Ulaanbaatar, Capital City, and Human Rights*", 2008, p35.

⁴⁴ Amnesty International's interview with Law and Human Rights, 21 July 2009.

⁴⁵ Amnesty International's interview with Ts. Zandankhuu, 27 July 2009.

⁴⁶ Amnesty International's interview with D, mother of G, 27 July 2009.

⁴⁷ The Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, Article 1 (<http://www.un.org/documents/ga/res/43/a43r173.htm>).

⁴⁸ Under article 1 of Convention Against Torture, "the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

⁴⁹ UN Commission on Human Rights, Report of the Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment, Mission to Mongolia, UN Doc. E/CN.4/2006/6/Add.4, 20 December 2005, para. 16.

⁵⁰ NHRCM, p37. The report also notes that under the Law on the National Human Rights Commission the Commissioner may have access to materials of cases which were dismissed for prosecution or which were dismissed in a court of law.

⁵¹ Amnesty International's interview with Ts. Zandankhuu, 27 July 2009.

⁵² Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 15.
(<http://www.unhcr.ch/tbs/doc.nsf/0/58f5d4646e861359c1256ff600533f5f?Opendocument>).

⁵³ Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 18.

⁵⁴ Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989.

⁵⁵ Convention Against Torture, Article 12.

⁵⁶ UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Principle 2.
(<http://www2.ohchr.org/english/law/investigation.htm>).

⁵⁷ UN Commission on Human Rights, *Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment*, Mission to Mongolia UN Doc. E/CN.4/2006/6/Add.4,

20 December 2005, para. 40.

(<http://daccessdds.un.org/doc/UNDOC/GEN/G05/167/32/PDF/G0516732.pdf?OpenElement>).

⁵⁸ UN Commission on Human Rights, *Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Mission to Mongolia UN Doc. E/CN.4/2006/6/Add.4, 20 December 2005, para. 55(g).

⁵⁹ UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/HRC/7/3/Add.2, 18 February 2008, para. 392. (<http://daccessdds.un.org/doc/UNDOC/GEN/G08/106/95/PDF/G0810695.pdf?OpenElement>).

⁶⁰ UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/HRC10/44/Add.5, 17 February 2009, para. 4. (<http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.44.Add.5.pdf>).

⁶¹ Letter to Amnesty International from B. Galdaa, Director of the Special Investigation Unit, 19 October 2009, (Ref no: 1136).

⁶² Email to Amnesty International from the National Human Rights Commission of Mongolia, 15 August 2009.

⁶³ Those who had existing criminal records before the 1 July riot did not necessarily fall under the Amnesty Law.

⁶⁴ Amnesty International's interview with J. Batsuren, brother of J. Batzaya, 28 July 2009.

⁶⁵ Not all the hunger strikers lasted until 19 August. Two of the protesters continued their hunger strike for ten days while Ts. Enkhbayar was on hunger strike for 20 days.

⁶⁶ Amnesty International's interview with Ts. Enkhbayar, father of E. Dorjsuren, 28 July 2009.

⁶⁷ ICCPR, Article 2(3) a and b.

⁶⁸ Notably United Nations Commission on Human Rights, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005; UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

⁶⁹ See Amnesty International annual report entries for Mongolia.



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'WHERE SHOULD I GO FROM HERE' **THE LEGACY OF THE 1 JULY 2008 RIOT IN MONGOLIA**

On 1 July 2008, thousands of people protested at Sukhbaatar Square, Ulaanbaatar, amid allegations of widespread election fraud. The riot was unexpected and unexpectedly violent. The country's first state of emergency since transitioning to a democratic-style government was called at midnight on 2 July. Over 700 people were arrested on the night and over 100 more in the weeks following, for suspected offences committed during the riot. At least nine people were shot by the police, four people fatally, and a fifth person died allegedly from smoke inhalation.

One year after the riot, the scope of the investigation conducted to date remains limited. Allegations of torture and other ill-treatment in detention, and excessive and unnecessary use of police force have been largely ignored. The investigation by the Special Investigation Unit of the State General Prosecutor's Office into allegations that police used live ammunition was completed on 15 February 2009, but further procedures for prosecution have been stalled.

This report examines allegations of excessive and unnecessary use of force, including lethal force, and torture and other ill-treatment in detention. The failure to seriously investigate allegations of torture and other ill-treatment or to prosecute those suspected of carrying out and ordering the use of live ammunition raises key concerns of impunity and calls into question the legacy of the 1 July 2008 riot.

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

www.amnesty.org

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