

*"My brother was a bit of a hooligan. He first got sent to prison in 1978 or 1979, and after that he was in prison five or six times, sentenced for two or three years each time. The last time he was arrested was in August 1993. He had got drunk and stole a carpet and other household stuff from a friend. He was put in Gants Hudag prison here in Ulaanbaatar.*

*"In December we got a telegram from him saying: 'Health bad. Come'. It was not clear where he had sent it from. We went to Gants Hudag, but he was not there. We found his name on a list of prisoners who had been transferred - it turned out that he had been tried and sentenced at the beginning of the month, and sent to the prison at Maant, about 100 kilometres from Ulaanbaatar.*

*"At the end of February we received another telegram saying: 'Health worse. Come quickly'. We managed to get permission for some of the family to go and visit him at Maant for two days - there is a special place at the prison where families can go and stay with the prisoner. When my brother came in to see us he could barely walk and he was just skin and bone. He showed me how much weight he had lost -there was no fat on him anywhere, and his arms were so thin he could circle his upper arm with his thumb and forefinger. He was a walking skeleton...*

*"We fed him, but it was as if he didn't even have the stomach acid left to digest anything. On the first day he had diarrhoea and the food went straight through him. On the second day he vomited everything back up. At the end of those two days we left him, promising to send medicines.*

*"About 10 days later we got a telephone call from one of the staff at Gants Hudag. My brother's health had got worse, so they had transferred him back there to the central prison clinic. We went there the next day. First we spoke to the doctor looking after him. He said that they would do what they could for him, but my brother had been brought there too late and they would not be able to save him. When I saw my brother he already looked like a dead man, and he was so weak he could not speak. I sat with him and held his hand and prayed with him, and I know that he could hear me because after I prayed I could see that he had tears in his eyes...*

*"We left him that day and went home. They tell me my brother died about an hour later. His death certificate said he died of starvation."*

Davaadelger, the man described above, was a common criminal and repeat offender. He was 36 years old when he died in a prison hospital on 25 March 1994.



# £MONGOLIA

## @Prison inmates starve to death

### Introduction

Prisoners in Mongolia are dying of starvation. The cause is gross neglect on the part of the authorities, and in some cases deliberate abuse. In current conditions in Mongolia every prison sentence is a potential death sentence. This report highlights the causes of the problem - to which the Mongolian authorities freely admit - and makes recommendations for how it might be solved.

Additionally, this report details Mongolia's continuing use of the death penalty. It comments on the practice, possibly amounting to cruel, inhuman or degrading treatment or punishment, of placing a prisoner granted clemency from the death penalty in indefinite solitary confinement.

### Two aspects to the problem of starvation in prisons

Starvation is not a new problem in Mongolia's prison system: it has been reported in the Mongolian media since at least 1992. The problem has two aspects:

- Failure to provide adequate food supplies to prisoners serving sentences in penitentiaries, for lack of money;
- Deliberate starvation to force confessions from people in pre-trial detention, treatment which amounts to cruel, inhuman and degrading treatment, and possibly torture.

These two aspects are linked, since deliberate starvation in pre-trial detention makes it more likely that the gross neglect in the penitentiaries where people are sent by the courts to serve custodial sentences will lead to death. Both official and unofficial sources stated to Amnesty International that people arriving in penitentiaries can be severely malnourished from their period in pre-trial detention. In some cases their condition cannot be reversed and they die.

### *Inadequate food supplies in the penitentiaries*

Ninety inmates died in prison in the period from autumn 1993 to autumn 1994. This is the most recent period for which official statistics have been made available to Amnesty International. Out of these 90 deaths the number caused by starvation was put variously at 15 or 30, depending on which official was describing the problem, and the other deaths were attributed to illness or work accidents. Amnesty International takes the view that neither of the figures given by officials may accurately reflect the extent of the problem of deaths caused by starvation. Given that malnutrition can cause suppression of the immune system and weaken resistance to illness, many of the deaths among prisoners officially attributed to illness may be indirectly the result of starvation.

The problem of inadequate food supplies stems directly from the provision in the Law on the Prison Service and Custodial Sentencing that **"Prisoners... will be responsible, through labour, for the cost of food, clothing, bedding, and for power and heating in living quarters"** (Article 11.3). In other words, prison rations are not paid for directly from the state budget, but instead the law requires that prisoners must work for their food, which is paid for from the money they earn; only juveniles and certified disabled prisoners are exempt from this requirement and have their food costs covered from the state budget.

Not only is Article 11.3 of the Law on the Prison Service and Custodial Sentencing a violation of international standards,<sup>1</sup> but it is also patently unworkable. This law came into effect only at the beginning of 1994, but the concept of linking prisoners' subsistence with their labour contribution has been left unchanged from previous legislation. In the past,

## MONGOLIA'S PRISON SYSTEM

The number of people serving terms of imprisonment was around 5,300 in December 1994.

Prisoners serve their sentences in penitentiaries (also referred to as corrective labour institutions) organized according to three different regimes: ordinary (low security), strict (high security) and special (maximum security). The Department of Corrective Labour at the Ministry of Justice has 12 penitentiaries under its control: seven of ordinary regime, four of strict regime (Maant, Zuunkharaa, Baganuur and Dart) and one of special regime (Avdarant). In addition, most of Mongolia's 21 provinces have an ordinary regime penitentiary which is under the control of the provincial administration in cooperation with the Department of Corrective Labour.

There is one ordinary regime penitentiary for women, located at Bayanzur on the outskirts of the capital, Ulaanbaatar; the inmates include female juveniles, although officials stated that these are segregated from the rest of the prisoners. Male juveniles have a separate penitentiary, also in Ulaanbaatar. Both are under the direct control of the Department of Corrective Labour. According to a report in the main government newspaper *Ardyn Erk* ("People's Right") published in January 1995 there were 90 male juveniles and 7 female juveniles serving terms of imprisonment.

Every penitentiary has a clinic, and there is also a central prison clinic in Ulaanbaatar (attached to Gants Hudag prison-see below) for prisoners who are too ill to be treated at their penitentiary clinic.

People remanded in custody pending investigation and trial are the responsibility of the police. They are held in district or provincial police stations, and at Gants Hudag investigation-isolation prison in Ulaanbaatar.

prisoners worked in factories or other economic enterprises attached to the penitentiaries, and when Mongolia had a command economy production targets from these penitentiary economic enterprises were incorporated into centralized state economic planning. In the new conditions of a market economy the prison economic enterprises are not always viable, and the responsible authorities are struggling to provide some prisoners with work. The idea of breaking the link in the law between work and food and having the state take on the obligation of feeding prisoners regardless of their labour contribution was reportedly included in the draft of the law but was rejected by parliament on the grounds of cost. The Corrective Labour Department is badly under-funded: its allocation from the state budget for 1995 is 500 million togrogs (US\$1,250,000), only half of the sum requested.

Officials claim that despite these problems they are able to provide prisoners with adequate rations. In discussions with Amnesty International in December 1994 the Head of the Corrective Labour Department explained what the regulation rations were for prisoners and implied that these regulations were being met. He listed the regulation daily calorie intake for different categories of prisoners.<sup>2</sup> He also listed the full range of foods that regulations provide in the prison diet,<sup>3</sup> commenting that the only item on the list that the Department was not able to provide currently was sugar.

These claims for food allowances are not borne out by the level of reported deaths from starvation, and have been flatly contradicted by unofficial sources who have told Amnesty International that the prison administrations cannot guarantee an adequate minimum ration to prisoners. These sources reported that the only food generally available is horse meat, rice and poor quality bread. Low calorie intake, particularly combined with nutritional imbalance, would greatly increase the risk of prisoners developing nutritional disorders, depressed immunological response and infections. A medical professional in Mongolia told Amnesty International that deaths in the prison system occurred mostly from illnesses resulting from immune system suppression to which starvation or malnutrition appeared to be the major contributory factor. A high proportion of the patients in the central prison clinic are reported to be suffering from sudden weight loss which is consistent with illness resulting from depressed immunological response.

Nor are the official claims borne out by the testimony of unofficial sources and reports in the Mongolian media. These describe desperate behaviour by starving prisoners. In

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<sup>2</sup>As described, the regulation daily calorie intakes for prisoners, by regime are: solitary confinement - 2,900; special regime - 3,400; strict regime - 3,500; ordinary regime - 3,600. Certain types of prisoners get greater allowances: juveniles - 3,900; hospital patients - 3,900; tuberculosis patients - 4,000. There are additional allowances in certain cases: pregnant women -1,500 extra per day; people already malnourished on admission to prison - 2,100 extra per day. Amnesty International notes the discrepancy between these allowances and the intake of around 2,700 calories per day for the average adult male in the developed world.

<sup>3</sup>Bread, cereals, sugar, meat, tea, salt, potatoes, vegetables, animal fats, vegetable oil, dairy products, liver.

one incident, described by a former prisoner to a family member and subsequently recounted to Amnesty International, prisoners at Maant are said to have caught and killed a cat which was hanging around the penitentiary complex and to have eaten its flesh raw. The government newspaper *Ardyn Erk* on 21 December 1994, in a report about prison conditions, quoted another former inmate at Maant who described how prisoners ate potato peelings taken from the penitentiary's garbage. The same report described how a prisoner in Baganuur killed, cooked and ate a puppy.

#### **Additional problems of poor sanitation and medical care**

Officials freely admitted to Amnesty International that the general standard of prison conditions is unacceptably low. There is overcrowding, a shortage of clothing and medical supplies, and poor sanitation. This was corroborated by descriptions of conditions in the penitentiaries given by unofficial sources. These conditions, which fail to satisfy international standards,<sup>4</sup> may contribute to the deaths of prisoners through illness.

According to regulations prisoners should be able to wash completely once a week. The reality as described to Amnesty International is that even where penitentiaries have a shower room these are mostly not working, so the prisoners cannot wash properly. Furthermore, the regulation change of clothing once a week cannot be supplied because of financial constraints (like food, clothing is meant to be paid for from the revenues generated by prisoners' work). Consequently there are cases of skin disease.

Amnesty International also heard complaints about a lack of clean drinking water in most penitentiaries. Some do not even have a direct water supply either from the mains or from a well, so drinking water has to be brought by truck. In summer especially this creates health problems such as outbreaks of diarrhoea.

Amnesty International was told that clinics at penitentiaries suffer from a shortage of medical supplies. These have to be bought from the Ministry of Health, and the budget provided by the state to the Corrective Labour Department is not enough to cover the cost of everything that is needed.

#### ***Deliberate starvation in pre-trial detention***

A medical professional in Mongolia told Amnesty International in December 1994 that the majority of those who die in penitentiaries are already starving when they come from pre-trial custody. The Head of the Corrective Labour Department also stressed that many of the people arriving at the penitentiaries are already sick or malnourished, and that often despite efforts to feed them properly once they reach the penitentiary their condition proves irreversible.

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<sup>4</sup> See Appendix.

Starvation of prisoners while they are remanded in custody pending investigation and trial was reported to be a consequence both of inadequate rations and the deliberate withholding of food to force confessions from people detained on suspicion of committing a crime. It is important to stress that deliberate starvation of remand prisoners is not a practice condoned by the responsible authorities at the highest level. The fact that cases have occurred was freely admitted to Amnesty International by the First Deputy Minister of Justice, but he declared that these were the result of misconduct by individual officers who have been punished when found out.

A local human rights activist who has researched this practice described to Amnesty International how a prisoner who failed to confess under interrogation would be returned to his cell and put on a reduced ration, or no ration at all, for several days before being brought back for further interrogation. The source cited the case of one victim who had been left for two weeks on a tiny ration between interrogations. A survey carried out by the office of the State Prosecutor and cited by the English-language newspaper *Mongol Messenger* in December 1994 noted that 274 out of 700 remand prisoners who had been detained at Gants Hudag prison since the previous April were suffering from malnutrition, and seven had died.

### *Making complaints against ill-treatment*

Although the problems outlined above, and others such as alleged beatings and other ill-treatment by police during arrest or by investigators during interrogation have been widely discussed in the Mongolian media, Amnesty International has heard comments from official and unofficial sources alike about the general reluctance of individuals to make formal complaints against people in authority. The First Deputy Minister of Justice told Amnesty International in December 1994 that people are not well informed or confident about the possibilities open to them to lodge appeals with a procurator and the courts, or to initiate legal proceedings against state authorities who abuse their position.

International instruments, however, oblige the authorities not only to ensure that the right of all persons, including those in detention, to a remedy for human rights violations is respected, but also to ensure that they know how to exercise it so that the right can be effectively implemented.<sup>5</sup>

## **Amnesty International's recommendations for confronting the problem of starvation and other ill-treatment of prisoners**

Amnesty International acknowledges the efforts being made by the Department of Corrective Labour to solve the problem of starvation in the penitentiaries. The Department is cooperating with humanitarian aid organizations and is developing self-help projects to

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<sup>5</sup> See Appendix.

grow crops, rear livestock and dig wells. In a statement at the end of January 1995 addressed to UN Secretary General Boutros Boutros Ghali, President Puntsalmaagiyn Ochirbat declared that Mongolia would be seeking "financial and other assistance" from the United Nations to improve conditions in remand prisons and penitentiaries. Nevertheless, Amnesty International regrets that the authorities continue to view the absence of income-generating work for prisoners as the crux of the problem. Amnesty International is instead making the following recommendations:

- The Law on the Prison Service and Custodial Sentencing should be amended to break the explicit link between prisoners' labour and the provision of food and other services to them. The Mongolian authorities should acknowledge that they are obliged by international standards to protect the right to life of prisoners guaranteed by Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which Mongolia ratified in 1974. As a means of doing so, they should implement their obligations under the Standard Minimum Rules and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the Body of Principles) to provide all prisoners with adequate food and medical care.

In addition, Amnesty International is seeking through this report to interest humanitarian aid and prison reform organizations in the problem and to encourage such organizations to work with the Mongolian authorities to tackle starvation and other aspects of poor prison conditions in Mongolia.

Amnesty International also acknowledges the assurance given by the First Deputy Minister of Justice that deliberate starvation in pre-trial detention is not an officially condoned practice but is the result of misconduct by individuals. Nevertheless, to safeguard detainees against such practices Amnesty International recommends that the authorities in Mongolia do the following, in line with international standards:<sup>6</sup>

- Inform all detainees of their rights, including the right to complain to the authorities against ill-treatment (Rule 35 of the Standard Minimum Rules; Procedure 4 of Procedures for the Effective Implementation of the Standard Minimum Rules);
- Establish an effective and impartial complaints procedure with powers to implement decisions (Rule 36 of the Standard Minimum Rules; Principle 33 of the Body of Principles);
- Establish an effective system of independent inspections of all places of detention (Rule 55 of the Standard Minimum Rules);

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<sup>6</sup> The relevant extracts from international standards are quoted in full in the Appendix.



- Consider as a matter of priority ratification or accession to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Bring those responsible for ill-treatment to justice (Human Rights Committee General Comment 20, paragraph 13);
- Make provision in the Mongolian Constitution for the establishment of an Ombudsman, as previously recommended in the 1992 Amnesty International report *Mongolia - Continuing legislative reform* (AI Index: ASA 30/01/92). The duties of the Ombudsman would normally include the power to investigate alleged or apparent instances of violations of fundamental rights and freedoms, abuse of power, unlawful, oppressive or unfair treatment of citizens by government officials, and to assist victims of such violations, abuse or unfair treatment to obtain redress. To ensure the protection of those detained or imprisoned, an Ombudsman should be empowered to gain access at any time, without prior notice, to any place of confinement. An Ombudsman should also have the power to take appropriate action to call for the remedying, correction and reversal of abuses including bringing proceedings in a competent court and making recommendations to the appropriate authorities for the reform of legislation or existing practices.

## **MONGOLIA'S USE OF THE JUDICIAL DEATH PENALTY**

Mongolia retains the death penalty in law, and death sentences are regularly passed and carried out. Positive steps represented by a recent reduction in the number of capital offences and a statement by President Ochirbat that abolition of capital punishment is under consideration are outweighed by statistics showing increasing use of this punishment. This increase is in reaction to a crime rate growing by 13-15 per cent a year, the consequence of economic and social crisis precipitated by the drastic contraction of Mongolia's economy after massive grants and subsidies from the former USSR were withdrawn in 1990-91. At the same time Mongolia embarked on the difficult transition to an open society with a market economy after almost seven decades as a one-party Communist state with a command economy including guaranteed full employment and a state welfare system.

### *Capital crimes and prospects for abolition*

Changes to the Criminal Code effective from 1 July 1993 reduced the number of capital offences in Mongolia from eight to five:

- ◆ Political murder (Article 62)
- ◆ Political murder of a representative of a foreign state (Article 63)
- ◆ Wrecking (Article 64)
- ◆ Premeditated murder under aggravating circumstances (Article 86)
- ◆ Aggravated rape (Article 112 part 3)

The death penalty is an optional punishment for all five offences, and according to government officials the death penalty is applied in practice only for the last two, premeditated aggravated murder and aggravated rape. The First Deputy Minister of Justice told Amnesty International that the death penalty was retained for the other three offences to satisfy public opinion, and contrary to original proposals put before parliament, even though in practice there have been no cases in recent years.

In the view of officials who discussed the subject with Amnesty International's delegation to Mongolia in December 1994, total abolition of the death penalty through amendment of the Constitution or further amendment of the Criminal Code is unlikely for the foreseeable future, principally because abolition is not supported by a majority of members of parliament. Public opinion remains strongly in favour of the death penalty. A proposal for total abolition put forward by the parliamentary sub-committee on human rights was rejected by parliament when the 1993 Criminal Code amendments were debated. Nevertheless, in his message addressed to the UN Secretary General at the end of January 1995 President Ochirbat stated that while conditions were not yet suitable for abolition of the death penalty, this would be considered in the context of work currently in hand to produce a new Criminal Code.

During crime waves there is often much public support for executions because people believe the death penalty helps stop crime. In its contacts with Mongolia's government, parliamentarians and the media Amnesty International has consistently pointed out that this is not true - there is no evidence that the death penalty prevents serious crimes any more than other punishments. It is Amnesty International's view also that the wrong message is given when a government itself violates human rights in the process of seeking to enforce law and order. In Amnesty International's view the death penalty violates the right to life and is the ultimate cruel, inhuman and degrading punishment.

Amnesty International has stated the hope that the people of Mongolia and their leaders will decide that a commitment to human rights and to finding genuine solutions to crime will be furthered by an end to the death penalty.

### *Sentencing, appeals and clemency*

The latest official statistics made available to Amnesty International, covering the period from 1 January to 1 November 1994, show that 26 death sentences were passed. No precise information was available on the number of executions carried out in that period, but officials told Amnesty International that around half of the death sentences passed by the courts are ultimately carried out. The last set of official figures available, for 1992, showed that 22 people were sentenced to death and 11 were executed. These figures compare with 19 death sentences and 10 executions in 1991, and only five executions in 1990. Execution is by shooting.

Death sentences can be passed at first instance by the courts of the 21 provinces or by Ulaanbaatar city court. A death sentence may not be passed on a woman, nor on a man aged under 18 at the time of the crime, or aged 60 and over. A person sentenced to death has the right to appeal against the conviction and sentence to the Supreme Court. As explained to Amnesty International by the Chief Justice of the Supreme Court in December 1994, under a new procedure which came into effect in 1993 an appeal is considered by a panel of three Supreme Court judges, who have the right to overturn the decision of the provincial or city court. If they decide to leave the sentence unchanged, however, their decision is reviewed and can be overturned by the full composition of the Supreme Court (17 judges in total), minus the three judges who made up the original panel.

In addition, all Supreme Court judges have the right to rule as admissible for judicial review a case heard in a first instance court, including a capital case, on the basis of a complaint lodged by any of the parties to the original court proceedings.

A decision by the Supreme Court acting as a review court is final except where one third of the full membership of the court decides to reconsider it. The Supreme Court's original verdict can be overturned if two thirds of the judges decide to do this.

If after the Supreme Court appeal and review process is exhausted a death sentence is still left unchanged, a petition for clemency can be submitted to the President. Since 1 July 1993, under amendments to the Criminal Code, the President has had the option when granting clemency in capital cases to substitute a sentence of "indefinite" imprisonment.

Amnesty International has been informed that the government has proposed a further amendment to allow the President to commute a death sentence to a maximum prison sentence of 25 years, rather than "indefinite" imprisonment, to make it consistent with the maximum prison term that can be handed down by a court.

### **Amnesty International's recommendations on the death penalty**

Amnesty International continues to call on the Mongolian authorities not to carry out executions, and to abolish the death penalty by amendment to the Constitution or by omitting capital penalties from the Criminal Code. Noting the recent statement by President Ochirbat that Mongolia is committed to abolishing the death penalty but is not yet ready to do so, Amnesty International calls on the authorities at least to do the following:

- Create an official commission on the death penalty. The experience in other countries has shown that where it is difficult to proceed immediately to a decision on abolition, creating a commission of inquiry may be a useful way of obtaining the facts on which a decision can be based. An official commission can serve to remove the issue of the death penalty from the political and emotional climate which so often surrounds it. The findings of a commission can provide officials, legislators and the public with an objective body of information to guide decisions on the issue.
- Pending the outcome of the work of an official commission on the death penalty, impose a moratorium on executions.

### **THE REALITY OF CLEMENCY - POSSIBLY A LIFETIME OF SOLITARY CONFINEMENT**

According to the Head of the Department of Corrective Labour at the Ministry of Justice sentences of indefinite imprisonment which are substituted for death sentences as a result of clemency by the President are served in a "special section" at the special regime penitentiary at Avdarant. As detailed in the Law on the Prison Service and Custodial Sentencing, regulations require that such sentences are served entirely in solitary confinement, beginning with five years under conditions allowing the prisoner only one hour each day in the open air, one brief visit from family members each year, and the right to send letters every two months. After five years the rights to visits and correspondence are extended.

There is said to be only one person serving indefinite imprisonment, a man identified to Amnesty International by the Head of the Corrective Labour Department as Bayarkhuu Altanhuyag. No further information is available about this prisoner.

Amnesty International is calling on the Mongolian authorities to clarify the exact nature of the solitary confinement regime for prisoners serving indefinite imprisonment.

The organization notes that prolonged isolation may have serious effects on the physical and mental health of prisoners and may constitute cruel, inhuman or degrading treatment or punishment. Prisoners held in other countries in total isolation for prolonged periods have suffered both psychological and physical disorders including emotional disturbances, impaired concentration and ability to think, neuroses, sleep disturbances, headaches, dizziness, low blood pressure and circulation and digestive problems.

Prolonged solitary confinement which causes mental suffering violates international law. The United Nations Human Rights Committee in its General Comment No. 20 (44) has made clear that the prohibition of torture and cruel, inhuman or degrading treatment or punishment in Article 7 of the ICCPR includes "acts that cause mental suffering to the victim" (paragraph 5), and that "prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by Article 7" (paragraph 6).



## **APPENDIX: RELEVANT INTERNATIONAL STANDARDS CONCERNING PRISON CONDITIONS**

### *1. Food supplies*

"Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 20(1)*

### *2. Sanitation and Medical Care*

"Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to the season and geographical region, but at least once a week in a temperate climate."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 13.*

"Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 15.*

"All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 17(2).*

"Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be staff of suitably trained officers."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 22(2).*

"A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge."

*UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 24.*

### ***3. Making complaints***

"Each state party to the present Covenant 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;

(c) To ensure that the competent authorities shall enforce such remedies when granted."

*International Covenant on Civil and Political Rights, Article 2(3).*

"Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

*International Covenant on Civil and Political Rights, Article 9(4)*

"Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 35(1).*

"The Standard Minimum Rules, as embodied in national legislation and other regulations, shall also be made available and understandable to all prisoners and all persons under detention, on their admission and during their confinement."

*Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, Procedure 4.*



"Every Prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

"It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

"Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

"Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 36.*

"A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers."

*UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 33(1).*

"There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services."

*UN Standard Minimum Rules for the Treatment of Prisoners, Rule 55.*

"States parties should indicate when presenting their reports the provisions of their criminal law which penalize torture and cruel, inhuman and degrading treatment or punishment, specifying the penalties applicable to such acts, whether committed by public officials or other persons acting on behalf of the State, or by private persons. Those who violate article 7 [of the ICCPR, prohibiting torture and ill-treatment], whether by encouraging, ordering, tolerating or perpetrating prohibited acts, must be held responsible. Consequently, those who have refused to obey orders must not be punished or subjected to any adverse treatment."

*Human Rights Committee General Comment 20, Paragraph 13.*