

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: ASA 30/001/2014
10 December 2014

Mongolia: Amnesty International calls for fair trials in Mongolia

On the occasion of the United Nations (UN) Human Rights Day, Amnesty International is calling the Mongolian authorities to respect the principle of fair trial as a matter of urgency. Unless Mongolia urgently ensures that its criminal justice system is in line with international law and standards, many more individuals are at risk.

In the past, Amnesty International had documented cases of people who have suffered from torture or other ill-treatment to extract forced “confessions”, in clear violation of international law. International law, including treaties to which Mongolia is a state party, such as the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prohibit any form of torture or other ill-treatment, absolutely and in all circumstances. The ICCPR in addition sets down the minimum requirements for fair trials.

The UN Committee against Torture, the body tasked with the interpretation of the Convention, made recommendations to the Mongolian authorities in 2011 to “ensure that any statement or confessions made by persons in custody ascertained to have been made as a result of torture or ill-treatment should not be admissible as evidence against the person who made the confession.”¹ However, the Mongolian criminal justice system has been seen to rely heavily on obtaining confessions for instituting prosecution.²

Statements elicited as a result of torture, ill-treatment or other forms of coercion must be excluded as evidence in criminal proceedings, except those brought against suspected perpetrators of such abuse. These exclusionary rules are inherent in the prohibition against torture and other ill-treatment, as well as the right of accused people not to be compelled to testify against themselves or confess guilt, and the right to remain silent. Respect for these rights requires that the prosecution prove its case without reliance on evidence obtained by torture or other ill-treatment, coercion or oppression.

Amnesty International is also concerned about the continued practice of arbitrary arrests and detention. Lawyers and relatives of former detainees told Amnesty International that arrested suspects often do not have prompt access to a lawyer. The national law of Mongolia and international human rights law prohibit arbitrary arrest and detention. In addition, the ICCPR requires that all persons deprived of their liberty are treated with humanity and respect for their dignity.

The criminal justice system is a means to ensure that those who have committed recognizable criminal offences are held accountable, but in doing so it must respect and ensure the rights of those suspected of committing offences. This includes the right to be presumed innocent until proved guilty according to law. This right applies to suspects even before formal charges are filed and continues until a conviction is confirmed following a final appeal. It means that authorities, including prosecutors, police and government officials must not make statements indicating an opinion about the guilt of an accused before the conclusion of criminal proceedings. It is the duty of the Mongolian authorities to ensure that all individuals within their jurisdiction are treated with humanity and respect for their dignity, and in accordance with the presumption of innocence.

Therefore, on this Human Rights Day, Amnesty International calls on the Mongolian authorities to

- Ensure statements elicited as a result of torture, ill-treatment or other forms of coercion are not admitted as evidence in criminal proceedings unless to prove that ill-treatment has been carried out.
- 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 or degrading treatment or punishment, and the UN Committee against Torture.
- Ensure that prompt, thorough, impartial, independent and transparent investigations are carried out into all allegations of ill-treatment, arbitrary arrests and detention, and ensure that any law enforcement officers found responsible for human rights violations of suspects and persons in detention are subjected to disciplinary, and where necessary criminal, measures as appropriate.
- Urgently ensure that all detainees in detention have prompt, regular and confidential access to legal representatives of their own choosing, adequate medical care as requested or necessary and are able to receive visits from and communicate with family members.

¹ CAT, Concluding Observations: Mongolia, UN Doc. CAT/C/MNG/CO/1 (2010) §18.

² See already Special Rapporteur on torture, UN Doc. E/CN.4/2006/6/Add.4, §36.