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Mongolia must not allow impunity for police officials suspected of human rights violations during the 1 July 2008 riot

Two years after five people died during the riot which erupted in Sukhbaatar Square, Ulaanbaatar, Mongolian authorities have failed to prosecute any of the police officers suspected of responsibility for excessive and lethal use of firearms during the riot, Amnesty International said.

On the second anniversary of the 1 July riot, Amnesty International urged Mongolian authorities to meet their obligations under international human rights law to proceed with prosecution of the accused officers, and also to launch investigations into other alleged instances of police abuse.

During the riot police used truncheons, shields, tear gas, guns with rubber bullets and blanks, as well as firearms with live ammunition, to disperse the crowds. Protesters threw stones and hit police with wooden poles. At least nine people were shot by the police, four of them fatally. A fifth person died allegedly from smoke inhalation.

Amnesty International recognizes that it is the responsibility of the Mongolian police to maintain public order. However, this must be done strictly in line with international human rights standards on the use of force by law enforcement officials.

Following the riot, the Special Investigation Unit began investigating the use of live ammunition. The investigation found that police did use live ammunition and that those who were issued with firearms and carried out the shootings did not receive any instructions on the use of firearms and lacked training regarding the consequences of using them. An investigation was conducted into the authorization of the use of live ammunition by four senior police officials.

The investigation was concluded by the Special Investigation Unit and the findings were handed over to the Prosecution Office on 19 January 2010, which dropped all charges against the four senior police officials and ten police officers in February 2010.

Dropping the charges effectively means their case will now not go to court. Under Mongolian law the Prosecutor decides on whether or not to disclose information on cases.

The Prosecutor's Office of Ulaanbaatar confirmed with Amnesty International in May 2010 that four senior police officials would not be prosecuted. Instead they were eligible for amnesty under the 9 July 2009 Amnesty Law, which covers minor crimes and misdemeanours committed before 24 June 2009.

The ten police officers investigated for their role in carrying out the shootings will not be prosecuted. According to the Prosecutor's Office of Ulaanbaatar the police officers did not have criminal elements because they had not intended to kill anyone.

By deciding not to bring any prosecutions, the Prosecutor's Office has failed to uphold Mongolia's obligations under human rights law to ensure that arbitrary or abusive use of force including lethal force is punished as a criminal offence. Preventing a court from making a judicial determination of guilt or innocence of the officers responsible for the shootings denies

victims and the public of the right to justice and may encourage similar conduct by officials in the future.

International human rights standards on states' obligations to respect and protect the right to life strictly limit the circumstances and manner in which law enforcement officials may use force against persons. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides, in Principle 9, that firearms must not be used against persons except in self-defence or defence of others against the imminent threat of death or serious injury and only when less extreme means are insufficient to achieve these objectives. The Principles explicitly provide that, in dealing with assemblies where people are using violence, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary, and only under the conditions stipulated in Principle 9. Any other use of firearms is unjustified.

According to the UN Basic Principles governments are obliged to ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under law. The Basic Principles also note that government and law enforcement agencies must ensure that superior officers be held responsible if they know, or should have known, that law enforcement officials under their command are resorting to unlawful use of force and firearms and they did not take all measures in their power to prevent, suppress or report such use.

Amnesty International also remains concerned that the investigations have been limited in scope, only focusing on the shootings. Allegations of other unnecessary and excessive use of force by police during the demonstration, ill-treatment of those detained and unfair trials of those prosecuted still have not been adequately investigated.

Background

On 1 July 2008, thousands of people gathered in Sukhbaatar Square in Ulaanbaatar to protest against allegations of widespread fraud in parliamentary elections held on 29 June 2008. A State of Emergency was called from 2 July for four days. Police arrested over 700 people on the night of 1 and 2 July and over 100 more were arrested in the weeks following. Research conducted by Amnesty International in 2009 in relation to the riot found that complaints of torture and other ill-treatment were consistently ignored or dismissed without adequate investigation.

Amnesty International calls on the government of Mongolia to:

- 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 in trials that meet international fair trial standards.
- Provide victim's families and surviving victims with reparations, in accordance with international standards;
- 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.

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