

MONGOLIA - DEATH PENALTY

1. At present Mongolia is in the list of countries that did not abolish death penalty.
2. The new Criminal Code, enforced from September 2002, restricts the scope of subjects to capital punishment. It is prohibited to impose capital punishment on women, men over the age of 60 and persons who had not reached the age of 18 at the time of commission of crime. This provision is abidingly administered.
3. However, the previous Criminal Code used to impose death penalty to five categories of crimes, whereas the new Code allows it to six categories. The law adds a new category of crime previously not punishable by death penalty “Armed Robbery”. Moreover, the previous Criminal Code prescribed 14 aggravating circumstances of violent homicide, whereas the new law adds three more circumstances bringing the total number to seventeen. In other words, capital punishment is imposed to three more charges of crime.
4. From 1993 a procedure has been followed on mandatory review by the Supervisory Division of the Supreme Court of capital punishment sentences imposed by lower courts, regardless of it’s review by an appellate court. This procedure is in compliance with the provision of the International Covenant on Civil and Political Rights, stating, “...this penalty can only be carried out pursuant to a final judgment rendered by a competent court.”
5. The President of Mongolia is authorized to grant a pardon to or commute a death sentence. The procedure for considering grounds for pardoning is administered after the judicial review of the case by the Supreme Court.
6. Though legal guarantees protecting from unlawful sentencing of death penalty exists, such practices of serious judicial errors in imposing capital punishment on suspects and accused based on extorted confessions, forged under coercion of physical and emotional duress by certain police and investigation officers, has not been fully eradicated.
7. The Commission organized four days workshop for public servants, representatives of non-governmental organizations, human rights activists, lecturers and teachers of law universities on death penalty and torture at the end of September 2003. The aim of the workshop were to raise awareness among public servants and non-governmental organizations about death penalty, change people’s attitude and approaches to retaining death penalty.
8. The workshop was jointly organized with the National Coordinating Committee of Amnesty International in Mongolia. The training involved more than 140 people including police officers, judges, investigators, prosecutors and other officials from relevant state organizations, representatives of non-governmental organizations, university lecturers and scholars.
9. The workshop addressed issues on historic overview of death penalty, present situation worldwide, and international and regional treaties prohibiting or restricting the use of the death penalty. The participants openly discussed the situation of death penalty in Mongolia, and the role of the media, NGO and the judiciary in abolition of death penalty.

10. Currently, Mongolia lacks in national research or data on death penalty and yet the public officials argue that it is necessary to retain death penalty. in the second quarter of 2004, the Commission will conduct a study on exercise and application of death penalty. The objectives of the study are to determine the opinions of the public and the official sector on death penalty, collect official data on application and execution of death penalty, and also to determine the need for Mongolia to ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights.
11. Based on the study, the Commission will take necessary actions by issuing relevant recommendations and demands to decrease the number of offenses subject to death penalty and eventually abolish the death penalty and bring Mongolia in line with international practice.

MONGOLIA - TRAFFICKING

1. Mongolia is both a source and transit point for trafficking. Though there is no domestic law specifically dealing with trafficking of persons, the new Criminal Code criminalized the act of sale and purchase of humans and imposed sanctions of fine, forced labor or imprisonment for a term of up to 3 years for committing the crime. If the crime is committed on a permanent basis by an organized group or a criminal organization or if it has entailed grave harm then it is punishable by imprisonment for a term of more than 10 to 15 years. For example, recently a foreigner was charged for trafficking of two Mongolian girls to Yugoslavia and for forcing them to engage in prostitution.
2. Though Mongolia is a party to the main international human rights treaties it has not acceded to any international treaties relating to trafficking. In November 2003, the Commission made a proposal to the Parliament on speedy accession to the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Currently the Commission is collaborating with the Ministry of Foreign Affairs of Mongolia in this regard.
3. In 2002, the Commission conducted a study on trafficking, in collaboration with the Human Rights and Development Center. The study demonstrated that there have been incidents of forced labor and trafficking of women. Moreover, the number of advertisements on jobs abroad enticing for high payment has increased. Similarly, articles on trafficking of Mongolian girls abroad has also increased. There are facts that Mongolian women and teenagers are involved in sex industry in Asia and Eastern Europe. They may have been the victims of trafficking.
4. The study showed that police officers, investigators and prosecutors who deal with such cases regard trafficked people as prostitutes or other type of criminals rather than victims. As a result victims are often re-victimized. Based on the study, the Commission considered that there is a need for training of investigators and prosecutors on trafficking. In February 2003, the Commission organized a workshop for prosecutors and investigators on “Trafficking of Women and Children”. The training involved 21 prosecutors and investigators who are in charge of investigation of serious crimes. The workshop addressed the issues including understanding of crime of sale and purchase of humans stipulated in the Criminal Code, identification and investigation of trafficking, victim protection, difficulties encountered by investigators, relevant international standards and national laws pertaining to trafficking, the current situation of trafficking of humans in Mongolia, and practice of other countries in the Asia-Pacific region.
5. The training proved to be very effective tool for developing cooperation and understanding between the Commission and relevant agencies. For example, the General Police Department of Mongolia asked for support from the Commission in resolving a case relating to five Mongolian women who have allegedly been victims of trafficking. The Commission addressed the Malaysian Human Rights Commission with a view to cooperate in finding out more information concerning the matter and to assist those women.

6. The Commission will continue to organize activities such as training and workshops aiming at raising the public awareness and to prevent from trafficking.
7. The Commission is collaborating with the Human Rights and Development Center in conducting further studies to assess the implementation of relevant provisions of laws relating to trafficking, consistency of relevant laws of Mongolia with international standards, and conducting a survey on victims of trafficking.
8. The Commission considers that the Trafficking Focal Point Network established by the APF is a starting point for national institutions to improve their capacities to support governments in their efforts to prevent, penalize and eliminate trafficking. The Commission would like to be involved in exchange of information and data, joint research projects with other human rights institutions in the region. Perhaps one recent example of the regional cooperation would be the Commission addressing the Malaysian Human Rights Commission concerning Mongolian women who have allegedly been victims of trafficking.