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HUMAN RIGHTS COUNCIL

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Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on torture and other cruel, inhuman or
degrading treatment or punishment, Manfred Nowak**

Addendum

**FOLLOW-UP TO THE RECOMMENDATIONS MADE BY THE
SPECIAL RAPPORTEUR**

**VISITS TO CHINA, GEORGIA, JORDAN, NEPAL, NIGERIA,
AND TOGO***

* The present document is being circulated as received, in the languages of submission only.

Introduction

1. This document contains information supplied by Governments, as well as other stakeholders, including National Human Rights Institutions and non-governmental organizations (NGOs), relating to the follow-up measures to the recommendations of the Special Rapporteur made following country visits. In paragraph 5 (c) of its resolution 8/8 on torture and other cruel, inhuman or degrading treatment or punishment of June 2008, the Human Rights Council urged States “To ensure appropriate follow-up to the recommendations and conclusions of the Special Rapporteur;” The report submitted to the fifty-ninth session of the Commission (E/CN.4/2003/68, para. 18), indicated that Governments of countries to which visits have been carried out would regularly be reminded of the observations and recommendations made by the Special Rapporteur after such visits. Information would be requested on the consideration given to the recommendations, the steps taken to implement them, and any constraints that may prevent their implementation. Information from NGOs and other interested parties regarding measures taken in follow up to his recommendations would be welcome as well.
2. Starting from the present report, the format of the follow-up report has been modified with the aim of rendering it more reader-friendly and of facilitating the identification of concrete steps taken in response to the specific recommendations and their results. For this reason, so-called follow-up tables have been created, which contain the recommendations of the Special Rapporteur, a brief description of the situation when the country visit was undertaken, an overview of steps taken in previous years and included in previous follow-up reports and, in the last column, measures taken in the current year on the basis of information gathered by the Special Rapporteur, from governmental and non-governmental sources.
3. By letters dated 4-9 December 2008, the Special Rapporteur submitted to the respective Governments for their consideration and comments the information on follow-up measures he had gathered. Letters were sent to the following countries: China, Georgia, Jordan, Mongolia, Nepal, Nigeria, Paraguay and Togo. Information was received from the Governments of Georgia and Togo. The Special Rapporteur is grateful for the information received.
4. The Government of Mongolia has not provided any follow-up information since the visit was carried out.
5. In the future, the Special Rapporteur intends to include in the new format all countries visited by mandate holders in the previous ten years.
6. Owing to restrictions, the Special Rapporteur has been obliged to reduce the details of responses; attention has been given to reflect information that specifically addresses the recommendations and which has not been previously reported.

China

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to China in November 2005 (E/CN.4/2006/6/Add.6, para. 82).

Recommendation (E/CN.4/2006/6/Add.6)	Situation during visit in 2005 (See E/CN.4/2006/6/Add.6)	Steps taken in previous years (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	Information received on steps taken since December 2007/current situation
compensation proportionate to the gravity of the physical and mental harm suffered, and adequate medical treatment and rehabilitation.	rights by any State organ or functionary, but it contained an exception clause for criminal cases where confessions were “intentionally fabricated” or other “evidence of guilt” was falsified.		<i>going through a painstaking process.</i>
(p) Death row prisoners should not be subjected to additional punishment such as being handcuffed and shackled.	At the Beijing Municipality Detention Centre, death row prisoners awaiting appeal were handcuffed and shackled with leg irons for 24 hours a day and in all circumstances.		<ul style="list-style-type: none"> • <i>Non-governmental sources: No information has been received on new practices abolishing the handcuffing and shackling of death row prisoners. Some convicts were reportedly denied a final farewell visit by their families prior to their execution.</i> • <i>The Government has increased the use of lethal injections to replace executions by shooting people in the neck.</i> • <i>New reports were received about harvesting of organs from death row prisoners and Falun Gong practitioners.</i>
(q) The restoration of Supreme Court review for all death sentences should be utilized as an opportunity to publish national statistics on the application of the death penalty.	The SPC restored its power of review in October 2005.	<p>2006: The Government announced that it was planning to implement the full audio-visual recording of appellate court proceedings in death penalty cases.</p> <p>2007: The SPC resumed review of death penalty sentences as of Jan 2007; Official accounts estimate a drop in the number of executions by 30% in 2007 compared to 2006 as a result of a reduction in death</p>	<p><i>Non-governmental sources: Statistics on the application and execution of the death penalty are not published, which contributes to the perception of secrecy and makes it difficult to assess any true progress following the resumption of the SPC’s review function;</i></p> <p>No statistical data on death sentences and</p>

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		sentences passed by lower courts and an average of approx. 15% of overturned death sentences by the SPC. <i>However, NGOs indicate that no official annual statistics were published and that the estimated number of executions in 2007 was between 5,000 and 6,000.</i>	on the impact of SPC oversight on the number of cases of capital punishment was provided.
(r) The scope of the death penalty should be reduced, e.g. by abolishing it for economic and non-violent crimes.	Chinese law provided for the death penalty in relation to a wide range of offences that did not reach the international standard of “most serious crimes”; among the more than 60 capital offences, there were many economic and other non-violent crimes.		Non-governmental sources: <i>The number of crimes that carry the death penalty has not been reduced (at present 68). Several death sentences for non-capital crimes have been imposed during the reporting period. The SPC is currently working on a judicial interpretation of “the most serious and vile” crimes, for which the death penalty should be applied exclusively.</i>
(s) Political crimes that leave large discretion to law enforcement and prosecution authorities such as “endangering national security”, “subverting State power”, “undermining the unity of the country”, “supplying of State secrets to individuals abroad” etc. should be abolished.	The replacement of the crimes of “counter-revolution” and “hooliganism” in 1997 with vaguely defined crimes in the Chinese CL left their application open to abuse particularly against the peaceful exercise of the fundamental freedoms of religion, speech and assembly.	2006 and 2007: Non-government sources: <i>statistics released by the SPP state that the number of arrests for endangering state security rose from 296 in 2005 to 604 in 2006. Arrests reportedly increased further in 2007 to 742, the highest number since 1999.</i>	Non-governmental sources: <i>The number of arrests for endangering state security has risen in 2008 in light of the mass arrests following the March 2008 demonstrations in Tibet and the unrest in Xinjiang. The majority of people arrested for endangering state security are arrested for “subversion”, “incitement to subversion”, “splittism” and “incitement to splittism”. The vague definitions of these crimes in the Criminal Law provide the PSB and the State Security Ministry with broad discretion in deciding what constitutes a political crime and how it should be handled. The prohibition on</i>

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			<p><i>opening trials involving state secrets to the public further increases the authorities' margin of manoeuvre when dealing with cases of political crimes. The total number of prisoners convicted for political crimes is estimated by non-governmental sources at around 4.000 people, and several thousands more are believed to be serving sentences for illegal political activities in RTL detention facilities.</i></p> <p>No statistical data on the number of new arrests for endangering state security and on the current number of all persons detained for the crimes of counterrevolution and endangering state security was provided.</p>
<p>(t) All persons who have been sentenced for the peaceful exercise of freedom of speech, assembly, association and religion, on the basis of vaguely defined political crimes, both before and after the 1997 reform of the CL, should be released.</p>	<p>Despite the revision of the CL in 1997, political dissidents sentenced before 1997 continued to serve long prison sentences for "hooliganism" and other non-violent offences. After the 1997 changes, political dissidents, journalists, writers, lawyers, human rights defenders, Falun gong practitioners and members of the Tibetan and Uighur ethnic, linguistic and religious minorities continued to be prosecuted for peacefully</p>		<p>Non-governmental sources: <i>Although some individuals have been granted early releases, no systematic effort to free peaceful dissidents has been made. Despite the fact that the crimes of counterrevolution and hooliganism were dropped from the Criminal Law in 1997, as many as 100 persons are estimated to remain imprisoned for these crimes.</i></p> <p>No statistical data on the number of persons released or granted sentence reduction for crimes that have been abolished was provided.</p>

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	exercising their human rights on the basis of vaguely defined crimes and sentenced to long prison terms.		
(u) "Re-education through Labour" (RTL) and similar forms of forced re-education in prisons, pretrial detention centres and psychiatric hospitals should be abolished.	RTL and other forms of administrative detention had been used for many years against political groups, Falun Gong practitioners and human rights defenders accused of politically deviant and dissident behaviour, disturbance of the social order or similar petty offences. Some of these measures of re-education through coercion, humiliation and punishment aimed at altering the personality of detainees up to the point of breaking their will.		<p>Non-governmental sources: RTL continues to be used in a wide range of cases against political dissidents, petitioners, religious, ethnic and linguistic minorities, human rights defenders and others, including cases involving prostitution and begging. Figures received on the number of existing RTL detention sites range from 320 to 352, with one source quoting the total number of detainees at 220,000. Several thousand persons are reportedly detained in the RTL system for illegal political activity, or to be punished for making trouble, without legal charges, trial or judicial review sometimes for a period of up to four years. RTL also continues to specifically target Falun Gong members. Torture and other ill-treatment in RTL facilities continue to be reported. In the run-up to the Olympic Games, peaceful petitioners and rights activists in Beijing were arrested under the scope of RTL.</p> <p>The Special Rapporteur has not received information on when the Illegal Behaviour Correction 2007 draft law on the reform</p>