**Response by the Government of Mongolia to the questionnaire**

 **on deprivation of liberty of women and girls**

***10 October 2018***

1. **JUSTICE SYSTEM**

1. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.

**Response**

Detention shall be carried out upon the decree of court in accordance with provision 1 of Article 14.9 and arrest in accordance with Article 31.4 and 31.5 of the Criminal Procedure Code entered into force on 01 July 2017. The below table by Judicial General Council shows the number of women to whom measures of restraint were applied. In 2017, out of 496 persons to whom court ordered an arrest 33 were female, and out of 2765 persons detained under the court decisions 109 were female respectively.

**Table 1. Number of women arrested**

**and detained by year**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Year** | **Number of arrested persons** | **Female** | **Number of detained persons** | **Female** |
| 2014 | 814 | 46 | 3721 | 176 |
| 2015 | 869 | 85 | 3277 | 130 |
| 2016 | 713 | 40 | 3642 | 238 |
| 2017 | 496 | 33 | 2765 | 109 |

According to a report by Crime and Offense Registration and Analysis Center of General Prosecutor’s Office, among those arrested or detained, women belonging to age group of 25-46 were identified as the most vulnerable to committing a crime.

**Table 2. Women detained by age groups**

|  |  |  |
| --- | --- | --- |
| **Year** | **Number of women** |  |
| **Under 18** | **18-25** | **26-45** | **Over 45** |
| 2013 | 134 | 5 | 23 | 68 | 29 |
| 2014 | 144 | 0 | 30 | 87 | 24 |
| 2015 | 145 | 4 | 36 | 71 | 33 |
| 2016 | 169 | 8 | 30 | 104 | 27 |
| 2017 | 94 | 5 | 20 | 56 | 13 |

Study among female detainees imprisoned in Detention center 461 of General Agency of Court Decision Enforcement shows that 60 percent of them were involved in crime in order to raise their standard of living or in other words caused by economic motives. Out of them, 9 percent were directly or indirectly involved in crime due to social factors and home environment, including emotional instability. Other major factors that influence involvement of women in crime are below average living standard households headed by women and lack of financial resources due to poverty and unemployment.

Crime statistics show that the largest number of crimes was convicted under Article 91 for the murder, Article 96 for intentional infliction of a severe bodily injury, Article 99 for intentional infliction of minor bodily injury, Article 145 for stealing of other people’s property and Article 148 for appropriation of property by fraud under the Criminal Code of 2002. Furthermore, the following crimes are considered as the most committed crimes under the revised Criminal Code that entered into force on 01 July 2017: Murder (Article 10.1), intentional infliction of a severe injury to other person’s health (Article 11.1), intentional infliction of a minor injury to other person’s health (Article 11.6) and fraud (Article 17.6). The table below shows a ratio of number of women, who committed above-mentioned crimes, and an overall number of convicted women.

**Table 3. Number of women convicted**

|  |  |  |  |
| --- | --- | --- | --- |
| **Year** | **Number of settled cases** | **Number of persons convicted** | **From** |
| **Number of women** | **Number and percentage of most repeatedly committed 5 crimes by women** |
| 2014 | 6375 | 8178 | **718** | 220 (30.6%) |
| 2015 | 6756 | 7696 | **664** | 245 (36.9%) |
| 2016 | 5762 | 6566 | **518** | 211 (40.7%) |
| 2017 /under the Criminal Code of 2002/ | 4314 | 4705 | **427** | 151 (35.4%) |
| 2017 /under the revised Criminal Code/ | 8839 | 9019 | **933** | 247 (26.4%) |

 The major reasons women committed fraud are as follows: 265 (35%) low living standards, 204 (27%) insatiable or greedy motives, 227 (30%) desire to make money easy and 62 (8.1%) unintentional involvement in a crime. The reasons for committing a crime against the right to life are as follows: 29 (15%) unstable family relationships, 69 (35%) jealousy, 78 (40%) domestic violence, and 19 (10%) alcohol consumption in home environment. In addition, the main reasons for the theft are: 62 (18%), the desire to earn a living due to the low standard of living, 86 (25%) alcohol dependence, 103 (30%) the influence of friends and 93 (27%) under someone else’s pressure. According to the National Police Agency data, the number of women, who committed administrative offenses due to excessive use of alcohol, was 4925 in 2016, 5521 in 2017 and 3877 as of August 2018.

1. **Please indicate if there are cases of women facing detention in relation to civil law suits and identify the particular groups of women mostly affected**.

**Response**

Detention of a person can only be carried out in accordance with the Criminal Procedure Code of Mongolia. There are no cases of detention during civil procedures, and there is no provision of the Civil Procedure Code providing for the deprivation of liberty of a person.

1. **What are the main challenges for women’s access to justice, including, for example the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?**

**Response**

Article 16.14 of the Constitution of Mongolia provides that the right to appeal to the court to protect his/her rights if he/she considers that the rights or freedoms as spelled out by the Mongolian law or an international treaty have been violated, … to receive legal assistance, to have evidence examined, to have access to a fair trial; to be tried in his/her presence and to appeal against a court decision. The right is guaranteed by law. In accordance with article 31.5 of the Criminal Procedure Code, a person shall be informed of the reasons and grounds for the arrest. In addition, article 31.6 of the same law provides for “clarification and information about the crime in which he/she is suspected, the right to legal counsel and notifying family members over 18 years old, relatives or lawyers about arrest within six hours”. Thus, women and girls, deprived liberty, have an access to a legal counsel of their choice. In 2018, there were no cases of violating the rights of detained persons to have an access to a legal representation of their choice.

At the trial stage there are no gender stereotypes and discrimination. There were no cases of complaints of discrimination against women and girls deprived of their liberty, as well as complaints related to not granting access to a lawyer. Legal counsel is provided to the suspect or defendant attesting to one’s inability to pay in cooperation with the Legal Aid Center.

1. **What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non-custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women offenders (Bangkok rules)?**

**Response**

 In the past decade[[1]](#footnote-1), 2222 women were detained in Prison 421 with strict security under the administration of the General Executive Agency for Court Decisions. 758 (34.1%) out of these women were detained for fraud, 344 (15.4%) for stealing others’ property, 195 (8.7%) for committing a crime against a person’s right to life, 182 (8.1%) for using narcotic drugs and psychotropic substances, 163 (7.3%) for robbery offense and 580 (26.1%) for other crimes.

 According to the quantitative studies on the causes of women’s detention between 2013 and June 2017, the number of detained women has increased. The causes are shown in the table below pursuant to the Criminal Procedure Code (adopted in 2002) that was valid until July 1, 2017.

**Table 4. Grounds for detention[[2]](#footnote-2)**

|  |  |  |
| --- | --- | --- |
| **Year** | **Number of detainees** | **Grounds for detention (as provided in Criminal Procedure Code 2002)** |
| Article 68 provision 68.2.2  | Article 68paragraph 68.1  | Article 68 provision 68.2.3  | Article 68 provision 68.2.1  | Obstruction of investigation | Preventing the escape from inquiry, investigation and court |
| 2013 | 134 | 3 | 1 | 5 | 9 | 25 | 92 |
| 2014 | 144 | 2 | 4 | 4 | 3 | 9 | 122 |
| 2015 | 145 | 5 | 9 | 6 | 4 | 10 | 113 |
| 2016 | 169 | 1 | 8 | 8 | 3 | 22 | 124 |
| 2017 | 94 | 0 | 7 | 6 | 5 | 12 | 64 |

The main factors for the above increase in number of detained women are related to implementation and trends of alternative enforcement and non-custodial measures. Discussions on these measures, including current situation, implementation, challenges and legal regulations and future trends have been held among academics, researchers and practitioners.

**Table 5. Survey of women sentenced to non-custodial measures[[3]](#footnote-3)**

| **Data** | **Compulsory works/Community service** | **Confiscation of property** | **Deprivation of the right to occupy specific official position or engage in specific activity****/Deprivation of rights/** | **Fines** |
| --- | --- | --- | --- | --- |
| **Year** | **2015** | **2016** | **2017** | **2018** | **2015** | **2016** | **2017** | **2015** | **2016** | **2017** | **2018** | **2015** | **2016** | **2017** | **2018** |
| **Offense classification** |
| **1** |  |  |  |  |  |  |  |  |  |  | **1** |  |  |  |  |
| **7** |   |   |   |   |   |   |   |   |   | 1 |   |   |   | 1 |   |
| **11** |   |   | 19 | 53 |   |   |   |   |   |   |   |   |   | 73 | 363 |
| **13** |   |   |   | 1 |   |   |   |   |   |   |   |   |   |   |   |
| **15** |   |   |   |   |   |   |   |   |   | 1 | 1 |   |   | 1 |   |
| **17** |   |   | 5 | 77 |   |   |   |   |   |   | 1 |   |   | 12 | 82 |
| **18** |   |   |   |   |   |   |   |   |   |   |   |   |   | 1 | 6 |
| **19** |   |   |   |   |   |   |   |   |   |   |   |   |   | 2 | 2 |
| **20** |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 4 |
| **21** |   |   | 1 | 1 |   |   |   |   |   |   | 2 |   |   |   | 3 |
| **22** |   |   |   |   |   |   |   |   |   | 1 | 2 |   |   | 1 | 2 |
| **23** |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 4 |
| **27** |   |   |   | 6 |   |   |   |   |   | 10 | 33 |   |   | 11 | 37 |
| **88** |   |   |   |   |   |   |   |   |   | 1 |   |   |   |   |   |
| **89** |   |   |   |   |   |   |   |   |   |   |   | 4 | 1 |   |   |
| **98** | 6 | 9 | 2 |   |   |   |   |   |   |   |   |   |   |   |   |
| **99** | 41 | 12 | 10 | 1 |   |   |   |   |   |   |   | 50 | 22 | 14 | 2 |
| **105** |   |   |   |   |   |   |   |   | 1 | 1 |   |   |   |   |   |
| **106** |   |   |   |   |   |   |   | 9 | 1 | 3 | 2 | 1 |   |   |   |
| **110** |   |   |   |   |   |   |   |   |   |   |   | 2 |   |   |   |
| **113** |   |   |   |   | 3 | 4 |   |   |   |   |   | 1 |   |   |   |
| **117** | 4 | 3 |   |   |   |   |   |   |   |   |   | 1 | 2 | 4 | 1 |
| **119** |   |   |   |   |   |   |   |   |   |   |   | 1 | 1 | 1 |   |
| **120** |   | 1 |   |   |   |   |   |   |   |   |   |   |   |   |   |
| **124** |   | 1 |   |   | 1 | 1 |   |   |   |   |   |   |   |   |   |
| **128** |   |   |   |   |   |   |   | 1 |   |   |   |   |   |   |   |
| **138** |   |   |   |   |   |   |   | 1 |   |   |   |   |   |   |   |
| **145** | 3 | 3 | 5 |   | 4 | 10 |   |   |   |   |   | 6 |   | 5 | 1 |
| **148** | 1 | 1 | 2 |   | 23 | 36 | 11 |   |   |   |   | 3 | 1 | 1 |   |
| **150** |   |   |   |   | 11 | 13 | 4 | 1 |   | 1 | 1 | 7 | 2 | 1 | 1 |
| **151** |   |   |   |   |   |   |   |   |   |   |   | 1 | 1 |   |   |
| **152** |   |   |   |   |   |   |   |   |   |   |   | 1 |   | 1 | 1 |
| **153** |   |   |   |   |   |   |   |   |   |   |   | 1 |   |   |   |
| **155** |   |   |   |   |   |   |   |   |   |   |   | 3 | 1 |   |   |
| **156** |   |   |   |   |   | 1 |   |   |   |   |   |   |   |   |   |
| **158** |   |   |   |   |   |   |   | 1 |   |   |   |   |   |   |   |
| **175** | 3 | 3 |   |   | 13 | 10 | 2 |   |   |   |   | 3 |   | 1 |   |
| **183** |   |   |   |   |   |   |   | 1 |   |   |   |   |   |   |   |
| **201** |   |   |   |   |   |   |   |   |   |   |   |   | 1 |   |   |
| **203** |   |   |   |   |   |   |   |   |   |   |   |   | 1 |   |   |
| **212** |   |   |   |   |   |   |   |   |   |   |   | 1 |   | 2 |   |
| **215** |   |   |   |   |   |   |   | 102 | 49 | 85 | 67 | 5 | 5 | 4 |   |
| **216** |   |   |   |   |   |   |   |   |   |   |   | 2 |   | 1 |   |
| **222** |   |   |   |   |   |   |   | 2 | 1 | 1 |   |   |   |   |   |
| **230** | 7 | 1 | 2 |   |   |   |   |   |   |   |   |   |   |   |   |
| **233** |   |   |   |   |   |   |   |   |   |   |   | 3 |   | 1 |   |
| **234** | 1 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| **247** | 1 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| **254** |   |   |   |   |   |   |   |   |   |   |   | 1 |   |   |   |
| **263** |   |   |   |   |   |   |   | 4 | 9 | 7 |   | 1 |   |   |   |
| **268** |   |   |   |   | 1 | 1 |   | 3 | 5 | 5 | 1 |   | 3 | 1 | 1 |
| **270** |   |   |   |   |   |   |   |   |   |   |   | 1 |   |   | 1 |
|  | **67** | **34** | **46** | **139** | **56** | **76** | **17** | **125** | **66** | **117** | **111** | **99** | **41** | **139** | **511** |

1. **OTHER INSTITUTION**
2. **What other institutions outside the justice system exist in your country wherein women and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.? Please list the groups of women and girls who are most concerned in each situation.**

**Response**

National Police Agency organizes activities and events in relation to fighting against domestic violence and preventing crimes against women and children on a regular basis.

Center for compulsory treatment and labor for alcohol and drug dependents affiliated to the General Executive Agency of Court Decision provides a mandatory treatment by court decision to persons, who have been medically identified alcohol or drug addiction, refuse to participate in voluntary treatment programs or repeatedly used alcohol/drugs. In terms of patients, 53 patients were women in 2013, 30 in 2014, 54 in 2015 and 39 in 2016 respectively.

1. **Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision on institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights?**

**Response**

As provided in the Law of Mongolia on Promotion of Gender Equality, the State shall ensure conditions and opportunities for actual implementation of equal rights of men and women to be hired in civil service policies defined in the provisions 10.1.1-10.1.4 of article 10 on “Guarantees of equal rights in civil service” of the said Law. However, the implementation of these provisions has been unsatisfactory or below 30 percent nationwide. The data collected from local governments is summarized in the table below to illustrate women’s participation in the decision-making process.

 **Table 6. Gender equality in decision making**

| **№** | **Civil servant** | **Gender equality** | **Comment** |
| --- | --- | --- | --- |
| **Total** | **Male** | **Female** |
| **Provision 10.1.1 of article 10** provides that“Representation of any one sex among politically appointed civil servants shall not be less than 15 percent on national, aimag and the capital city levels, 20 percent on district, 25 percent on soum and 30 percent on khoroo levels”  |
| 1 | Cabinet members | 16 | 14 | 2 | Quota is not achieved |
| 87.5% | 12.5% |
| 2 | Deputy Ministers | 13 | 8 | 5 | Quota is not achieved |
| 61.5 | 38.5% |
| 3 | Capital city Mayor and Governorsofaimags | 22 | 22 | 0 | Quota is not achieved |
| 100% | 0% |
| 4 | Governors of Ulaanbaatar City districts | 9 | 7  | 2 | Quota is achieved |
| 77,7% | 22,2% |
| **Provision 10.1.2 of article 10** provides that“Representation of any one sex in decision-making positions in public administration shall not be less than 15 percent among state secretaries and heads of agencies, 20 percent among managers in other central agencies, 30 percent among heads of department in ministries and agencies, 40 percent among heads of secretariats, departments and divisions at aimag, city, soum, duureg and khoroo levels” |
| 5 | State Secretaries of Government Ministries  | 13 | 12 | 1 | Quota is not achieved |
| 92.3% | 7.7% |
| 6 | Heads of Government agencies  | 27 | 27 | 0 | Quota is not achieved |
| 100%  | 0 |
| 7 | Heads of departments, divisions and units in Government ministries | 187 | 123 | 64 | Quota is achieved |
| 65.78 | 34.22 |
| 8 | Heads of secretariats, departments and divisions at aimag level | 108 | 140 | 56 | Quota is not achieved. Quota implementation has decreased compared to that of the previous year.  |
| 71 | 29 |
| 9 | Heads of secretariats, departments and divisions in the Capital City Mayor Office | 10 | 15 | 3 | Quota is not achieved |
| 83.33 | 16.67 |
| **Provision 10.1.4 of article 10** providesthat“In case of pre-dominance of one sex in the management of a public service agency, the agency shall develop policies and take measures aimed at ensuring a balanced gender ratio of 40:60”  |
| 10 | Managerial level officials in public service agencies at aimag level | 1931 | 330 | 731 | Quota is not achieved |
| 31 | 69 |

Furthermore, the Law provides that 16% of Local governments and Citizens Representatives' Khural (local self-governing body), including its Chairperson and representatives, shall be women. Bayankhongor, Zavkhan, and Hovd aimags have the highest number of women at the decision making level.

**Table 7. Number of women at the decision making level**

**in self-governing bodies**

| **№** | **Citizens Representatives' Khural of Aimags** | **Number of representatives**  | **Female** | **Male** | **Number of Chairpersons** | **Female** | **Male** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|
|  |
|
| 1 | Arkhangai | 39 | 6 | 33 | 11 | 1 | 10 |
| 2 | Bayan-Ulgii  | 39 | 4 | 35 | 11 | 2 | 9 |
| 3 | Bayankhongor  | 41 | 10 | 31 | 11 | 3 | 8 |
| 4 | Bulgan | 33 | 6 | 27 | 11 | 2 | 9 |
| 5 | Gobi-Altai | 40 | 7 | 33 | 11 | 1 | 10 |
| 6 | Gobisumber  | 17 | 1 | 16 | 7 | 1 | 6 |
| 7 | Darkhan-Uil | 33 | 6 | 27 | 11 | 3 | 8 |
| 8 | Dornogobi Citizens Representatives' Khural | 31 | 5 | 26 | 11 | 1 | 10 |
| 9 | Dornod | 35 | 3 | 32 | 11 |  | 11 |
| 10 | Dundgobi | 35 | 4 | 31 | 11 | 2 | 9 |
| 11 | Zavhan | 41 | 9 | 32 | 9 | 4 | 5 |
| 12 | Orkhon  | 33 | 2 | 31 | 11 |  | 11 |
| 13 | Uvurkhangai  | 41 | 7 | 34 | 11 | 0 | 11 |
| 14 | Umnugobi | 33 | 1 | 32 | 11 | 0 | 11 |
| 15 | Sukhbaatar | 33 | 5 | 28 | 11 | 2 | 9 |
| 16 | Selenge  | 37 | 7 | 30 | 11 | 3 | 8 |
| 17 | Tuv | 41 | 7 | 34 | 11 | 2 | 9 |
| 18 | Uvs | 41 | 5 | 36 | 11 | 2 | 9 |
| 19 | Hovd | 41 | 9 | 32 | 11 | 2 | 9 |
| 20 | Huvsgul  | 41 | 8 | 33 | 11 | 2 | 9 |
| 21 | Khentii | 39 | 8 | 31 | 11 | 3 | 8 |
| 22 | Ulaanbaatar City | 45 | 10 | 35 |  |  |  |
| **Total** | **809** | **130** | **679** | **225** | **36** | **189** |
|  | **16.069** | **83.93** |  | **16** | **84** |

1. **FORCED CONFINEMENT IN PRIVATE CONTEXTS**
2. **What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship and “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?**

**Response**

The Government of Mongolia has approved by Decree 148 the National Program on Combating Human Trafficking decree in 2017. With a view to improve the legal environment of combating human trafficking, Mongolia has signed a cooperation agreement on Combating human trafficking with the Government of Macau Special Administrative Region of the People's Republic of China in 2010. Moreover, Mongolia has signed a cooperation agreement on combating crime in 2011.

Mongolia is developing cooperation to combat and prevent such crime, protect and socialize the victims of this crime with other countries, government and non-government organizations. A study conducted by the Police Department shows that 15 women in 6 cases in 2015, 5 in 3 cases in 2016, 9 in 12 cases in 2017 and 3 in 7 cases as of the first 8 months of 2018, were reported as victims of human trafficking. Within the framework of action for human trafficking victim support, 15 citizens were repatriated in May 2018, including 13 from China and 2 from Malaysia in collaboration with the Consular Department of the Ministry of Foreign Affairs of Mongolia.

Currently, there is no recorded case of crime or offense of forced detention, servitude, detaining under guardianship and “honor” practices of women and girls.

1. **What is the role of the law and policy (including customary law and authorities) in your country concerning these types of confinement?**

**Response**

The revised Law on Combatting Domestic Violence was adopted in 2016 and entered into force on 1 February 2017. Within the framework of action to enforce the implementation of the law, a unit in charge of domestic violence prevention was established on 1 February 2017 within the National Police Agency under the direct supervision of the First Deputy Commissioner.

1. **MIGRATION AND CRISIS SITUATION**
2. **What are the specific risks of detention and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migration process?**

**Response**

Currently, there is no recorded case of detention or confinement of a foreign female citizen on the move in the context of asylum seeking, internal displacement and migration process in Mongolia.

1. **What is the policy relating to the administrative detention of women migrants including pregnant women and with children?**

**Response**

There are no specific provisions on administrative detention of women migrants including pregnant women and with children in the Law on Legal Status of Foreign Citizens. In accordance with sub-provision 6.13 of provision 6 of article 1.8 of the Law on Offense Procedure, which entered into force on 1 July 2017 the State inspector for foreign nationals shall resolve the violations determined by Law. Namely, as determined in provision 1 of article 15.2[[4]](#footnote-4), article 16.2[[5]](#footnote-5), 16.3[[6]](#footnote-6) and 16.4[[7]](#footnote-7) of the Law on Infringement of Mongolia. The State inspector may detain the foreign national up to six hours in order to determine the identity of the offender. The criminal court can decide to detain him/her for a duration up to 14 days upon the request of State inspector for foreign nationals in order to determine the identity of the person of interest or on the grounds that he/she may obstruct the investigation. The criminal court has the right to extend the term up to 30 days once.

1. Between 2008-2018 [↑](#footnote-ref-1)
2. Research of the Center of registration and analysis of crimes and offenses of the General Prosecution Office, Official document 1/3645 of Sept.25, 2018 [↑](#footnote-ref-2)
3. Data received Sept. 25, 2018 [↑](#footnote-ref-3)
4. Provision 1 of article 15.2 - For the purposes of fulfilling State official’s legal obligations:

Fail to comply with legal requirements or urge others not to comply;

Fail to provide legally requested information within asked timeframe or intentionally provide false information or mislead;

If interference with activities or attempt to influence is punishable in case of a person by a fine equal to 50 settlement units and in case of a legal entity by a fine equal to 500 settlement units. [↑](#footnote-ref-4)
5. Article 16.2 – Violating the Law on Legal Status of Foreign Citizens [↑](#footnote-ref-5)
6. Article 16.3 – Mongolian citizen violating law on immigration and traveling for private business [↑](#footnote-ref-6)
7. Article 16.4 – Violating the Free Economic Zone Law [↑](#footnote-ref-7)