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## **National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1\***

### **Mongolia**

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\* The present document was not edited before being sent to the United Nations translation services.

## List of abbreviations

UN	United Nations
Parliament	State Great Khural
NAPHR	National Action Program of Human Rights
UPR	Universal Periodic Review
NGOs	Non-governmental organizations
NHRC	National Human Rights Commission
OHCHR	Office of High Commissioner on Human Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
MOJHA	Ministry of Justice and Home Affairs
MLSW	Ministry of Labor and Social Welfare
UDHR	Universal Declaration of Human Rights
ILO	International Labor Organization
WHO	World Health Organization
GEC	General Elections Committee
UNESCO	United Nations Educational, Scientific and Cultural Organization
WIPO	World Intellectual Property Organization
CPC	Criminal Procedure Code
GPD	General Police Department
JDEL	Judicial Decision Enforcement Law
JDEA	Judicial Decision Enforcement Authority
GPO	General Prosecutor's Office
IOM	International Migration Organization
OINFC	Office of Immigration, Naturalization and Foreign Citizens
NPPPD	National Program on Promotion of Persons with Disabilities
GMP	Good Manufacturing Practice
HACCP	Hazard Analysis Critical Control Point
MPD	Metropolitan Police Department
SSIA	State Special Inspection Agency
USA	United States of America

## **I. Introduction**

### **Mongolian Government Position on the Universal Periodic Review**

1. The 1992 Constitution of Mongolia cemented human rights and freedoms by proclaiming them as the supreme objective of developing a humane, civil, democratic society in the country. Over the past 18 years Mongolia has given great importance in protecting the rights and freedoms of its citizens and forming political and legal environment to enjoy their legitimate rights. Moreover, Mongolia has been voicing for human rights and freedoms by way of expanding its cooperation with other democracies not only at national level but also at international arena.

2. As a member of the United Nations, Mongolia welcomes any decisions and recommendations on human rights protection and devotes its full support and activities in delivering them to every corner of the globe. Mongolia also considers that it is a state policy to help establish and empower national institutions on human rights. The Parliament adopted NAPHR on October 24, 2003 by its resolution 41, and the National Action Program Committee has been established to take charge of the implementation of the program.

3. The Government of Mongolia expresses its willingness to share practices and opinions on the protection of human rights with other countries and civil society by taking part in the process of UPR. Mongolia also sees this as an opportunity to inform the world of its human rights situation and to determine trends and measures that should be carried out to this end. Therefore, Mongolia strives to debate on them within the Human Rights Council and seeks for best advice by NGOs on the promotion and protection of human rights.

## **II. Methodology and Consultative Process**

4. The National Report includes human rights promotion and protection policy, its scope, implementation and implementing mechanism. Potential hindrances and appropriate strategies are also included.

5. This Report has been elaborated on the basis of the guidance provided in Resolution 5/1 of June 18, 2007 by the Human Rights Council, and on the General Guidelines for the Preparation of Information under the UPR set out in the Document A/HRC/6/L.24.

6. Throughout the entire period of preparation of the National Report, the Working Group formed by the decree of Prime Minister of Mongolia has convened for 3 times and it, at various level, has held numerous consultative meetings involving the NHRC, NGOs and experts. In January 2010, a three day national training was organized in cooperation with the OHCHR, which was attended by over 70 government and NGO representatives. Tripartite consultative process, which included the Mongolian government, UNDP and civil society organizations, also took place in February 2010 and views on how to prepare this report were exchanged. Preparation process was sufficiently transparent as the first draft was put on the NAPHR's website: [www.humanrights.mn](http://www.humanrights.mn) on May 12, 2010 for public awareness.

### **III. State mechanism for the promotion and protection of human rights**

#### **A. Basic goal**

7. Mongolia respects human dignity and values. Therefore, it deeply understands its obligation to create an apt environment with no discrimination in exercising rights and freedoms. In other words, the fundamental principle of the Mongolian state's activity is to respect human rights and freedoms.

8. Mongolia, while delivering specific protection to civil and political rights including right to life, right to liberty and security, right to speech, freedom of religion, freedom of assembly, freedom of peaceful demonstration, freedom of movement and security of privacy, is also standing on a position to promote crucial economic, social and cultural rights such as right to education, culture and right to health. The Government's action is well focused on the rights of persons with disabilities and citizens, who earn lower income than monthly average. Furthermore in 2008, legal aid centers were established in all 21 aimags (province) and districts of the capital city. Their primary aim is to provide legal advice to financially insolvent and vulnerable persons and to prevent that their rights are not violated because of their social origin or status.

9. Protecting the rights of national minorities stand as a priority of the Government's action as it holds non-discriminatory policy in drafting, defining and implementing policies and legislation. Proof can be found in the Constitution as Article 8.2 reads "Although the Mongolian language is the official language of the State it shall not affect the rights of national minorities of other tongues to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities".

10. The Government attaches great importance in meeting international norms and standards set by human rights bodies in order to provide its citizens with political, economic and cultural rights. Also it holds an informal legal training on a regular basis for public in order to improve their legal knowledge.

#### **B. Legal and Institutional Background**

11. The purpose of every Constitution is to strengthen the rights and freedoms of citizens by way of limiting the state power. According to this touchstone, the rights are classified in the Mongolian Constitution and obligation to maintain their inviolability is assigned upon the State. In other words, the State holds the responsibility before its citizens to form sufficient economic, social and legal guarantees for them, to combat against breaches and to restore any violated rights.

12. The human rights are protected not only by the Constitution but also through specific laws and regulations. It is obvious that those laws must not be in any contradiction with basic rights and if the case is so then the Constitutional Court (Tsets) is to handle this issue. Also a citizen has alternative by addressing the NHRC of Mongolia.

13. Mongolia is a party to core human rights instruments namely, the International Covenant on Civil and Political Rights, its Optional Protocol, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, CEDAW, CAT, CRC, its Optional Protocols, Convention on the Rights of Persons with Disabilities, its Optional Protocol and Labor Conventions. Mongolia ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on April 23, 2010.

14. According to the Constitution the international treaties to which Mongolia is a party, shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession. Therefore, any amendments to national laws or draft laws shall be in accordance with above international instruments.

### **C. Human Rights Institutions**

15. Depending on their functions and competences assigned by law, the Mongolian ministries pursue human rights activities. For example, the MOJHA defines human rights protection policy and trend while MLSW takes a lead role in realization of right to work, right of persons with disabilities and many other rights in social welfare field. Also the Ministry of Education deals with right to education and Ministry of Health implements the right to healthcare service. In addition, implementing or regulatory agencies of the Government run specific human rights activities, namely National Authority for Children and National Committee for Gender Equality.

16. In order to ensure an integrated approach and coordinate activities of state organisations dealing with human rights protection, the National Committee was established at MOJHA and the Prime Minister leads its work. According to this Committee Charter 412 sub-committees were established at ministries, agencies and also at capital city, aimags, soums (administrative unit) and districts.

17. The Law of NHRC was adopted on December 7, 2000 by the Parliament and independent NHRC has formally begun its activities in February 2001. The NHRC enjoys extraordinary rights, such as to supervise human rights and freedoms, which are stated in the Constitution, laws and other international agreements, and to restore violated rights, initiate proposals, recommendations and transmit them to state authorities. These rights remain effective during a state of emergency.

### **D. International human rights obligations**

18. Mongolia is strongly committed to its obligations under the UDHR in good faith by submitting its reports to treaty bodies. Recently Mongolia submitted its 5<sup>th</sup> Periodic Report on the International Covenant on Civil and Political Rights, Initial Report on the CAT, and presented the Combined 3<sup>rd</sup> and 4<sup>th</sup> Periodic Reports on the CRC in 2010.

## **IV. Promotion and protection of human rights**

### **Implementation of Human Rights Obligations**

19. The Government of Mongolia promotes and protects civil, political, economic, social and cultural rights while focusing on the protection of the rights of children, women, elderly people and persons with disabilities. Taking into account the experiences of other countries in human rights protection around the world, and also proposals, recommendations and concluding observations by the international human rights bodies, the Government of Mongolia is undertaking the following activities in the field of human rights.

#### **1. Right to life**

20. Although death penalty is still effective in the Criminal Code of Mongolia, on January 14, 2010 the President of Mongolia, according to his constitutional power to grant

pardon, has publicly declared moratorium on death penalty. So Mongolia is now in the list of countries that abolished death penalty in practice. Generally, death penalty is not imposed to a person who is under 18 years of age at the time of committing crime, men of over 60 years and women.

## 2. Right to healthy and safe environment

21. The Constitution of Mongolia guarantees the right to healthy and safe environment and to be protected against environmental pollution and ecological imbalance. To ensure that these rights are better promoted, Mongolia has become a party to international treaties and constantly enriched its national laws.

22. Mongolia is a party to 14 fundamental conventions, including the Vienna Convention on the Protection of the Ozone Layer, Convention on Biological Diversity, and UN Framework Convention on Climate Change. At national level, Mongolia adopted well over 30 legislative acts in the field of environmental protection which ensure the right to healthy and safe environment. These include Law on Environmental Protection, Law on Protected Areas' Buffer Zones, Water Law, Law on Natural Spring Water, Law on Pollution, Forestry Law, Minerals' Law, Law on Dangerous or Toxic Chemicals, Law on Household and Industrial Waste, Law on Environmental Impact Assessment, Law on Prohibition of Exploration and Exploitation of Minerals at River Basin, Reservoirs and Forestry.

23. Since over 60 percent of the total population of the country is residing in urban areas, air and soil pollution and lack of green zones in the capital city Ulaanbaatar as well as in Darkhan-Uul and Orkhon aimags, Murun and Choibalsan cities are to entail adverse affect to residents' health.

24. Pure water is considered a root for the well-being of human and nature as well. Domestic or industrial waste dump, or carwash and other objects are washed in rivers, springs and lakes, the misuse of water resource can not be stopped immediately. Therefore, water pollution is likely to continue occurring. Minerals exploration is also affecting the situation. As the urban population has been on increase in recent years, waste water level by the Central Sewage Plant into the River Tuul has also risen. So the relevant state authorities are pursuing a policy to adopt new sanitary regimes, evacuate households away from water basins, close exposed lavatories and waste water spot, and to clean up revealed rubbish.

25. Because of global warming or climate change and of adverse human activities the glaciers are receding, surface water is drying up, vegetation is decreasing, water is becoming more mineralized, soil erosion is intensifying, and desertification is spreading. These factors deteriorate livelihood environment. The 2007 Water Census statistics shows that 887 rivers of total 5121, 2096 springs of total 9340 and 1166 lakes of total 3732 have dried up respectively. Approximately 90 percent of pasture land of Mongolia situated in dry, semi-dry or almost dry atmosphere zones. 72 percent of the whole territory is affected by desertification (*most harshly by 5 percent, harshly by 18 percent, medium by 26 percent and fragile by 23 percent*). The Government of Mongolia is determined to take appropriate measures including approval of a new National Program on Combating Desertification and Water Program in 2010.

26. Between 1992 and 2002 ecological imbalance has resulted in frequent occurrence of *dzud* disasters (9 times), blizzards and storms (142 times) and human-animal infectious diseases (42 times). These natural disasters also affect the right to healthy and safe environment of herding families. So in 2009, the Parliament of Mongolia adopted "The State Policy towards Herders" with the purpose to improve herders' living condition and most importantly to promote their right to healthy and safe environment.

### **3. Right of ownership**

27. The 1992 Constitution determines basic regulations for the rights of ownership and since then specific legal acts have been adopted to improve and guarantee the environment for ownership rights. For instance, land, apartments, and livestock were privatized free of charge once. Article 101 of the Civil Code of 2002 reads “Owners shall be entitled to possess, use, dispose of their ownership subjects at own discretion and protect them from any encroachment, without breaking the other parties’ rights guaranteed by law, or agreement and within the limits determined by law”.

28. According to the Constitution, a citizen of Mongolia enjoys land ownership rights. By adopting the Land Law in 2002 followed by Law on Allocation of Land to Mongolian Citizens for Ownership and Law on State Registration of Ownership Rights and Other Related Property Rights, not only the legal environment for ownership rights was formed accordingly but also the property registration relations reached world standard. One of achievements of the Government of Mongolia was to establish Real Property Registration Office in 1997. During the early years of its operation, the registration of privatized apartments dominated its work. But since 2000 the registration of property owned through auction, self-made real property and movable property ownership rights has constantly increased. It becomes important for the Office to further improve legal environment for such rights and to establish data base of land and real estate property. This will help prevent infringement of ownership rights in the future.

29. The Government of Mongolia closely follows Article 16.5 of the Constitution, which states “A citizen of Mongolia has a right to material and financial assistance in old age, disability, childbirth and child care and in other circumstances as provided by law”.

### **4. Right to free choice of employment**

30. The right to employment is reflected in the Constitution, Labor Law, Law on Civil Service, and the Law on Financing and Management of Budget Organizations. Mongolia is also a party to 7 UN conventions and 20 ILO conventions on labour.

31. A legal ground for labor relations is well set in Mongolia as the Law on Employment Promotion and Law on Sending Labor Force Abroad and Receiving Labor Force and Specialists from Abroad were adopted respectively in 2001. These laws address specific matters, such as promotion of Mongolian citizens’ employment externally and internally. In 2010, the Government of Mongolia intends to amend these laws by harmonizing with international norms and standards. As of 2009, about 25,000 citizens went abroad for employment through contract. In the same year, 21,974,723,000 tugrugs (official monetary unit of Mongolia) were spent from employment promotion fund to finance a vocational training of 22568 unemployed citizens.

32. Although immoral incidents of “getting employed”, such as through connections or by handing bounty or gift still exist in Mongolia, they are likely to end. Because appropriate laws and labor market competition require to employ highly qualified, skilled and experienced ones. Moreover, the Government of Mongolia is taking necessary measures to improve equal employment opportunities for its citizens.

### **5. Right to healthcare service**

33. Healthcare service is provided with no discrimination to all citizens as Article 16.6 of the Constitution reads “Every citizen shall enjoy right to the protection of health and to medical care. The procedure and conditions of free medical aid shall be defined by law”.

34. The health insurance system created in 1994 provides an opportunity for all citizens to prevent any financial risks to be related with medical costs. The Government Action Plan

for 2008-2012 sets out 22 objectives for healthcare improvement. The Government also approved work plan consisting of total 96 articles to achieve the above objectives.

35. Mongolia developed its Essential Medicines List in 1991. Taking into account of WHO and other countries' practice to update this list along with many other factors, such as medicine market-oriented treatment method changes, illness conditions, medicine registration, procurement and proposals made by doctors and pharmacologists, Mongolia amended its list in 1993, 1996, 2001, 2005 and 2009. Annual budget for medicine purchase is around 29 billion tugrugs while expenditure for medicine per person is 8 U.S dollars (13000 tugrugs) and on average 6.95 types of medicines is served per inpatient.

36. In order to raise medical sector competitiveness, reduce state involvement, promote private clinics in improving access and quality of healthcare service, a private insurance system is introduced. In 2009, 56 billion tugrugs were given from health insurance fund to both public and private clinics and estimated 76 billion tugrugs will be allocated in 2010.

37. By its resolution 91 the Government of Mongolia approved the program "Healthy Mongolian" and this program was implemented from 2006 through 2008. Its aim was to improve citizens' health conditions by determining the level of infectious and non-infectious diseases among population and applying an appropriate treatment based on early detection. It was implemented in accordance with integrated guidance, planning and methodology, which led to improvement in medical aid and access, or equality and quality. Also the early detection of selected diseases and apt treatment showed positive results. Early detection, treatment and health restoration level is increasingly high, particularly in sexually transmitted infections, cervical cancer and hypertension. Within the scope of "Healthy Mongolian" Program, 1020705 persons (83.6 percent of total population) above the age of 15 received a preliminary medical examination.

## **6. Right to education**

38. The right to education is guaranteed by the Constitution of Mongolia. So basic education is provided free of charge. Education system is a combination of formal and non-formal education. Formal education system consists of pre-school, primary (6 years), secondary (9 years), post secondary (12 years), special and higher education institutions. 76.7 percent, 94.2 percent and 89.9 percent of each total pre-school, primary and secondary education aged children pursued formal education. The Government's programs such as "Midday tea", "Computer for every child" and provision of free stationery and textbooks for vulnerable children gives enormous opportunity for equal education environment. State funded boarding schools have been established at soum and bag (administrative unit) areas, where children of nomads and herders can go to schools. 54.6 percent of herders' children, who applied for dormitory, reside at dormitories in the academic year of 2009-2010. However, school dropouts have not stopped. As of September 2009, 0.8 percent of total basic school-aged children are dropped out of school, of 61 percent of them being boys. There are many reasons for school dropouts, but poverty is the dominant factor.

39. Based on the initiative and joint participation of state and private sectors, the purpose of state education policy is to develop education service that offers sufficient knowledge to live healthy and satisfied. In conformity with above, education content is to be reformed periodically by creating opportunity for pupils from their senior's level to choose subjects of their choice. After his or her postsecondary education, a pupil has alternatives either to go to a higher education institution or vocational training schools. If a pupil to choose VTS, the government pays his/her tuition fee and dormitory charges and provides a stipend. There exist specially equipped schools and classes for pupils with disabilities. 6 special schools for pupils with disabilities were established in Mongolia, which offer primary, secondary, post secondary education. The school dropouts with disabilities have access to education through special programs and they prove to be useful.



40. Higher education institutions choose their students on the basis of competitive entry examinations. Students from lower income or herder family, children with disabilities or orphans are financially supported by the State Training Fund in forms of grant or loan. Talented or students with strong academic record may also receive scholarships and financial incentives. Students, who study far from their permanent residence, collect travel payment and urban students benefit from transportation costs.

41. Since 1990's non formal education has becoming part of education system. The aspiration of this form of education is to re-educate school dropped youngsters and to bring adequate service to adults, who wish to improve their education, by collaborating with local formal education centers and media. In the near future, non formal education form will be turned into powerful network of life long education.

## **7. Election rights**

42. The Article 16.9 of the Constitution reads "A citizen of Mongolia shall enjoy a right to take part in the conduct of state affairs directly or through representative bodies and a right to elect and to be elected to state bodies". In other words, a citizen can exercise his or her right to take part in the conduct of state affairs by electing representatives to organs of all levels or to be elected or assigned to posts and participate in referendums.

43. The issue is also regulated by the Law on the Parliamentary Elections (2005), Law on Presidential Elections (1992) and Law on Local Forum Elections (2007). The Parliament is working to revise these laws to ensure that more political parties can have their representatives in the Parliament.

44. In the past, the central electoral body was under the Parliament. By enacting the Law on Central Electoral Body and establishing the General Election Commission, a legal ground of independent election organization was formed. The Law on Local Khural Elections was revised in 2007 with essential changes, including transparency of eligibility, announcement of election date, preparation work and furthermore the competence and economic guarantees for elections committees, candidate's action program and advertisement.

45. Persons with disabilities and detained persons still can not exercise their right to vote because of unsatisfactory organization of elections. It becomes necessary to address this issue. The lack of braille letters in the ballot paper and wheelchair access is a major problem for persons with disabilities to vote.

## **8. Freedom of assembly**

46. Freedom of assembly is governed by the Law on the Rights of Trade Unions, Law on NGOs, and Law on Registration of Legal Entities. Especially, the Law on the Registration of Legal Entities outlines registration period, list of required documents, and the reasons for refusal or revocation of registration, which are significant condition for the realization of freedom of assembly.

47. NGOs are divided into 2 categories, namely community-serving and member-serving. As of April 2010, in total 8329 NGOs have been registered in Mongolia, of which 80 percent is being community-serving and remaining 20 percent of NGOs are member-serving. In practice, employees exercise their freedom of assembly by establishing trade unions while employers through creating NGOs. Although gaining membership in trade unions is the only way to protect the labor related rights, still there is an insufficient number of trade unions exist in administrative and local organs. However, public service organizations have their own trade unions.

**9. Intellectual property rights**

48. The Article 16.8 of the Constitution proclaims that a citizen of Mongolia has the right to engage in creative work in cultural, artistic and scientific fields and to the benefit thereof.

49. Mongolia, as a party to many UNESCO, and WIPO conventions and treaties, is committed to social development by promoting people's creative work in art and scientific fields. A working group to elaborate "National Strategy on Intellectual Property" has been recently formed.

50. The law offers guarantee for Mongolian people's right to take part in cultural life, engage in creative works and benefit thereof, protect and inherit cultural and literature heritage. In order to form legal environment to protect traditional knowledge, artistic creations and long-established technologies, and to appropriately use and benefit thereof, the Law on the Protection of Traditional Knowledge has been drafted.

**10. Non discrimination rights**

51. A person shall not be discriminated against on any grounds as the Constitution of Mongolia, Labor Law, Law on Employment Promotion, Law on Sending Labor Force Abroad, and Receiving Labor Force and Specialists from Abroad provide specific guarantees. The National Program on Employment Promotion and the Strategic Paper of Social Welfare were adopted respectively in 2001 and 2003. Under these documents, women are not discriminated and can be promoted all the way in terms of their employment.

52. As of 2008, 53.4 percent of men between age 7-29 and 58.6 percent of women with the same age group have attended schools. This shows men's attendance is 5.2 points lower than women's. 64.3 percent of all under-age workers in non-formal sector are boys and 58.7 percent of them have quitted schools. Illiteracy rate for boys up to age of 18 is 12 percent while this rate is 20 percent among men who did not serve in the army. These figures reveal that education for boys is left far behind.

53. The state policy and protection are well defined for equal participation of men and women in development and prosperity of Mongolia. Mongolia is strongly committed to the Millennium Declaration adopted by the General Assembly and the Parliament of Mongolia approved the Millennium Development Goals of Mongolia in 2005. It includes fundamental gender equality objectives, such as to eliminate gender disparity in all levels of education, increase the share of women in wage employment in the non agricultural sector up to 50 percent, and to raise percentage by women in the national Parliament up to 30 percent no later than 2015.

54. The Government of Mongolia initiated the draft law on Gender Equality and submitted it to the Parliament in July 2009. The Human Development Report says that Mongolia ranked 94 out of 140 on Gender-Related Development Index and 65 out of 76 on Gender Empowerment Measure. Mongolia devotes its efforts in harmonizing gender based trends with development policy and planning while recognizes its role in world sustainable development.

**11. Right to personal liberty and safety**

55. In conformity with the Constitution, the CPC deals with specific procedures covering investigation and measures of restraint of detention of offenders, which constitute ground that no person shall be arrested unless it is determined by law. Although human rights somehow restricted during the criminal proceedings, humanity-based amendments, such as respect of natural rights, were made in the CPC in 2007. For example, the amended

Article 157.1 of the CPC reads “During the examination proceedings, suspect, accused, defendant, advocate and victim shall enjoy following rights”. The amendment protects the legitimate rights of said persons while guarantees legal aid opportunity.

56. The Code of Conduct for police officers has been developed recently. Moreover, the GPD approved the Action Strategy of police authorities.

57. “The Law on Implementation of Decision regarding Arrest and Detention Measures of Suspect and Accused” was adopted in 1999, which first established the detention facility standard at national level. According to the JDEL of 2002, JDEA is entitled to exercise discretion over detention facilities, and the detention consent is to be issued by judiciaries in conformity with international norms and standards. Activity carried out by detention facility is under review of facility chief or senior officer in charge of overall security and prosecutor does intervention in every 14 days. Additionally, an unexpected examination is also carried by upper level organs, including the Parliament, Government, NHRC, MOJHA and Working Groups assigned by them, or judicial decision enforcement or prosecution authorities.

## **12. Freedom of religion**

58. Mongolia has been actively engaged in the human rights activities by welcoming legal instruments and promoting cooperation with other democracies. And the freedom of religion is being one of many rights emphasized in the Constitution. Along with Buddhism there are other religions coexist in Mongolia.

59. The Article 16.15 of the Constitution reads “A citizen of Mongolia shall enjoy freedom of conscience and religion”. The freedom of religion is governed by the Law on Interrelations of State and Church (1993), NAPHR (2003) and State Policy Concept on Church and Religious Places (1994) developed by the Council of National Security of Mongolia. At present, 463 religious organizations, including Buddhism, Christianity, Islam, Bahaism, Shamanism and Moonism, have registered in Mongolia. Over 50 percent is these belong to Buddhist organizations and about 40 percent to Christian organizations.

## **13. Freedom of thought and free expression**

60. Information is open for individuals and media as the Article 16.17 stipulates that everyone has the right to seek and receive information except that which the state and its bodies are legally bound to protect as secret. The Law on Press Liberty, which was approved by the Parliament in 1998, prohibits the adoption of laws that restrain media liberty and the state interference in media policy. As the Law on Public Radio and Television was adopted in 2005, the state owned National Radio and Television Authority gained public status. It became a publicly controlled non-profit legal entity that serves for public interests. Any interference by an individual, official or organization is strictly prohibited.

61. Media liberty relation is regulated by the Civil Code, Criminal Code, Advertisement Law, Crime Prevention Law and the Law on Combating against Pornography.

62. The implementation of the right of peaceful assembly and demonstration was included in the NHRC Report on Human Rights and Freedoms in Mongolia (2004). The 1994 Law concerning the Procedures of Assembly and Demonstration was amended in 2005 following the revision of the definition “demonstration”, consent system and period of time for consent etc. According to the amendment, demonstration on the streets and squares is to take place upon the registration.

63. Four people were shot dead and one passed away from carbon monoxide poisoning during the mass disorder of the State of Emergency declared on July 1, 2008. The case of 4

people's death was examined by the Investigation Unit at the GPO. Guided by the Article 91 (Murder) of Criminal Code, the Investigation Unit conducted investigation involving six police officers and four officers in leadership position. The case of six officers was dropped due to insufficient crime elements and four head officers got released in accordance with the Amnesty Law of February 3, 2010. The case of the person, who died from carbon monoxide poisoning, was investigated in connection with circumstances involving some of political party leaders, who organized illegal demonstration and eventually the case was also dropped under the Amnesty Law of July 9, 2009.

#### **14. Privacy**

64. As laid down in the Law on Privacy enacted in 1995 by the Parliament, "Privacy" means information, document or object kept secret by a citizen of Mongolia, foreigner or stateless person in accordance with the Mongolian legislation, which may obviously entail harm to legitimate interests, dignity and reputation of above persons in case of disclosure. The Law also covers specific clauses, including type of privacy, protection guarantees and remedy procedures.

65. According to the CPC amendment of 2007, court trials may be held in closed sessions in order to protect privacies. In conformity with UDHR, The Criminal Code of Mongolia was also amended in 2008 by which punishments can be made in case of inviolability of citizen's privacy and correspondence has been breached by an abuse or excess of authority or through technical devices, or when grave damages occurred from circulation of information protected by laws.

#### **15. Freedom of movement**

66. The Article 16.18 of the Constitution reads "A citizen of Mongolia shall enjoy right to freedom of movement within the country and freedom of choose the place of one's residence, right to travel or reside abroad and, to return to home country". The freedom of movement (migration) is governed by the Law on State Registration, Law on Management of Administrative and Territorial Unit, and Procedures on Registration and Information of Citizen's Movement within the Territory of Mongolia, which was approved by Government Resolution №214 in 2002. The Mongolian legal regulation for freedom of movement is well harmonized with the principles of UDHR as the Constitution says the right to travel and reside abroad may be limited exclusively by law in order to ensure the security of the nation and population and to maintain public order. The annual NHRC Report on Human Rights and Freedoms in Mongolia reveals that Mongolia has "no problem" in terms of exercising freedom of movement.

67. Mongolia has been actively involving in the activities of the IOM since it gained membership in 2008. In collaboration with IOM, the OINFC will run a two year program on strengthening the migration management capacity in Mongolia.

#### **16. Rights of the child**

68. The 1996 Law on the Protection of Child Rights is being the core instrument of child protection at national level. On the other hand at international level, the Committee on the Rights of the Child reviewed Mongolia's National Report on the Convention on the Rights of the Child three times and its Optional Protocols one time. Latest Report was reviewed in January 2010, and the Government of Mongolia is implementing the recommendations made by the Committee.

69. As for the child protection mechanism and structure, Mongolia' Prime Minister leads the National Council for Children, whose secretariat function is executed by the National Authority for Children. The National Strategy for Children, which was approved

by the Government Resolution 197 of 2004, guarantees children's participation in all stages of decision making process. Also the Children's Forum, United Children's Council and an independent Children's Envoy assigned by the Children's Forum have been established respectively at all levels of national or local children's authorities.

70. Every 10 years, the Government of Mongolia approves the National Program on Strengthening Child Development and Protection and on July 9, 2008, the Third Stage Action Plan for the Implementation of this Program was adopted by the Resolution №284. The Program for the upcoming 10 years is about to be developed reflecting the result of 2010-2011. On June 25, 2008, the Government of Mongolia revised the Charter of the Children's Fund and its composition of Steering Council, which eventually raised possibilities for the projects and programs aimed at child development and protection policy, and for the youth NGOs to get financial assistance in accordance with the Law on Government Special Fund.

71. "Friend 19-79", a telephone line was established at the National Authority for Children in order to effectively develop child protection system in Mongolia. The Office for Labor and Welfare Service of the MLSW carries out monthly review on the movement of children at orphanage centers. Moreover, "Standards on child care and protection services" MNS 5852:2008 was adopted in 2009.

#### **17. Foreigner's rights**

72. The rights and duties of foreign citizens residing in Mongolia are regulated by Mongolian law and by the treaties concluded with the states concerned. Mongolia adheres to the principle of reciprocity in determining the rights and duties of foreign citizens in an international treaty. In other words, the rights of foreign citizens are specifically regulated by the Law on Legal Status of Foreign Citizens. At present, Mongolia has concluded visa agreements with over 40 foreign countries.

73. As of December 2009, 24654 foreign citizens, mostly from China, Japan, South Korea, Russia, USA and Ukraine, have been officially registered in Mongolia. The Law on Legal Status of Foreign Citizens stipulates that a number of foreign citizens residing in Mongolia shall not exceed 1 percent of the total citizens of Mongolia and citizens of any country shall not exceed 0.33 percent. Although a number of foreign citizens and immigrants is within this quota or is not adversely affecting the national security, the flow of illegal immigrants is on the rise in recent years. The OINFC, a regulatory agency of the Government of Mongolia, deals with foreigner's issues.

#### **18. Rights of persons with disabilities**

74. There are 76369 persons with disabilities living in Mongolia, of which 46 percent is female and 54 percent is male. 33 percent is all disabled are of natural birth while 67 percent is from causes acquired.

75. The rights of the persons with disabilities are specifically regulated by the Law on Social Welfare of Persons with Disabilities, Law on Social Insurances, Law on Granting Petitions and Payments from Social Insurance Fund for Industrial Accidents and Profession-related Diseases, Law on Citizen's Health Insurance, Health Law and Law on Employment Promotion. The Parliament and the Government papers, such as the State Population Policy and NPPPD, are also to play crucial role. The Rights of Mongolian persons with disabilities now can be protected at international level as the Parliament of Mongolia ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on December 19, 2008.

76. Within the objective to increasing employment rate of persons with disabilities, a number of employees with disabilities in each organization has been regulated. According

to the amendment of August 3, 2007 that was made to Article 111 of the Labor Law, organizations with 25 or more employees shall employ 4 or more percent of its total employees by persons with disabilities and pygmies.

77. The Government has undertaken specific measures concerning employment, social welfare and protection of the persons with disabilities, but also in developing their skills and guaranteeing their rights. As mentioned above, The Government approved the NPPPD in 2006. The Program differs from any other policies or programs as it focuses on social welfare, as well as participation of the persons with disabilities in social life by creating friendly environment for them.

78. In order to implement the Convention on the Rights of Persons with Disabilities, the Government of Mongolia, in its Action Plan 2008-2012, included vital objectives, such as to increase comfortable life-style and development possibilities for the persons with disabilities, and to provide them with standard infrastructures.

79. The MLSW maintains policy to expand cooperation with NGOs on publication and distribution of Braille books for blind persons, and on public awareness of participation of persons with disabilities in social life.

## **19. Women's rights**

80. The state policy on women's rights has been considered essential as the Constitutions of Mongolia (1924, 1940, 1960 and 1992) contain related clauses. A particular chapter of the State Population Policy of 1996 deals with women's rights and protection issues. The Government of Mongolia has been devoting its efforts on gender issues, particularly women's rights by approving the National Program on Strengthening Women Status (1996-2002) and National Program on Gender Parity (2002-2015).

81. Though the percentage of women representatives at political or decision-making levels have been set in the National Program on Gender Equality, participation of women in the decision-making process is still insufficient. The percentage of women, contested in the parliamentary elections, was 8 percent in 1992, 13.7 percent in 2004 and 18.5 percent in 2008. The percentage of women, who was elected to the Parliament, was 3.9 percent in 1992, 9.2 percent in 1996, 11.8 percent in 2000, 6.6 percent in 2004 and 3.9 percent in 2008 from total percentage of elected members. The result reveals that the percentage of women representatives was diminished in the last two elections. However, the percentage of women candidates has been increasing compared to the percentage of elected women.

82. Mongolia ratified the CEDAW in 1981 and the Optional Protocol on December 14, 2001. These allowed Mongolia to protect the women's rights and interests by harmonizing its domestic legislation with new concept and ideas. For example, in order to develop the implementation of the Law on Combating Domestic Violence, the Government of Mongolia approved the National Program on Combating against Domestic Violence.

83. Until recently the issue of human trafficking in children and women for sexual purposes was not critical in Mongolia. But in recent years the rights of Mongolian girls have been violated severely as they travel abroad on a false advertisement and eventually become illegal asylum seekers with document infringements. Therefore, Mongolia ratified the United Nations Convention against Transnational Organized Crime in 2008 and implementing the National Program on preventing human trafficking, particularly using children and women for sexual purposes. In the same year, the Parliament amended the Article 113 of the Criminal Code. According to the amendment, if a person has committed human trafficking with purpose to gain benefit or exploitation by using force or force with such, deceit, and while capitalizing on victim's vulnerability, and recruited, transported, transferred, sheltered and accepted others, then the person shall be punished accordingly.

## 20. Food security

84. One of essential components of the national security is to supply its population with safe and secure food as the Article 16.2 of the Constitution reads “A citizen of Mongolia shall enjoy right to healthy and safe environment and to be protected against environmental pollution and ecological imbalance”. Although the Constitution does not possess any detailed clause regarding the right to food, but the right has been considered a component to the right to healthy and safe environment. In Mongolia, food security is subject to the Law on Food, Land Law, Water Law, Law on the Protection of Health and Genetic Resources of Livestock, Law on Sanitary Inspection on Products of Animal or Plant Origins at State Borders, Law on Crops and Law on Sanitation.

85. Like many other countries Mongolia is taking immediate measures on food security policy and program in the light of world food shortage. In this regard, the Government of Mongolia approved the Program on Food and Nutrition Security in 2001. Later the Program was revised in harmonization with current Mongolian food supply situation and its tendency, along with global food shortage, price explosion and related decisions and recommendations made by UN or other international organizations. On the basis of this revision, the Government, on February 4, 2009, issued the Resolution №32 approving the National Program on Food Security.

86. The result of 2006 survey on risky factors of food and nutrition reveals that, of total percent of adults 4.9 percent is underweighted, 21.8 percent is overweighted and 9.8 percent is with obesity. It also clarifies that food shortage is at high level among those who are of vulnerable part of society, including orphans, persons with disabilities, elderly and poor households. Therefore, with financial assistance from Asian Development Bank, since 2008 the Government of Mongolia has been implementing the sub-program on providing food and nutrition support to vulnerable sections of society.

87. In order to improve the food security in Mongolia, the Government is making efforts to enhance the food producer’s capacity with appropriate approaches such as GMP or HACCP, and increase the enriched food production and furthermore raise monthly income of its citizens and improve the food knowledge of population.

## V. Implementation of the recommendations of Special Rapporteur on Torture and Other cruel, inhuman or degrading treatment or punishment

88. The Article 10 of the Constitution reads “Mongolia shall fulfill in good faith its obligations under international treaties to which it is a party. The international treaties, to which Mongolia is a party, shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession”. Thus, the CAT that was adopted on December 10, 1984 plays important role in the legal system of Mongolia. In order to meet up with the implementation of the Convention, Mr. Manfred Nowak, the Special Rapporteur on Torture, visited Mongolia in 2005 and the Parliament, the Government and other related authorities of Mongolia have been paying due attention to implement the recommendations made following his visit.

89. In order to prevent from any incident of torture, CPC and JDEL were amended respectively in 2007. The element of torture crime was inserted in the Article 251.1 of the Criminal Code through the Parliamentary amendment of February 1, 2008. As provided in the Articles 251.2 and 251.3, the same crime if it caused less serious or serious injury to a human body, and damage in a large amount or victim has died, shall be considered serious or grave crime and punished accordingly.

90. (Within Part C of the Recommendation) It has been legalized in the Article 59.5 of the CPC that only in exigent situations inquirer or investigator can arrest a suspect immediately and submit a resolution regarding the arrest to prosecutor or court within 24 hours. Within 48 hours judge shall issue judgment whether a suspect shall be arrested or not. As long as judge to render a final decision regarding arrest or detention, a suspect shall be transferred to detention centers of JDEA. It is important that inquirer or investigator has no discretion over arrest or detention in accordance with the CPC.

91. Since the status of detention center transferred to JDEA, it has built meeting rooms, where person under detention can have dialogue with his or her advocate, inquirer, investigator, prosecutor or judge under secured environment, and its staffs are obliged to submit the request of suspect and accused, who had measures of restraint of detention, to chiefs of related unit and section immediately.

92. (Within Part G of the Recommendation) As of November 2009, 7 police staffs were investigated upon the crimes under Article 99 and Article 251 of the Criminal Code, and received disciplinary measures and dismissed from their posts. Review and investigation processes regarding torture acts by police or its staffs are conducted on any information and transferred to competent authorities upon the completion. Throughout this period, a victim's testimony is kept secret.

93. In order to implement the CAT effectively, a torture has to be defined not only in frame of degrading treatment and punishment of suspect and accused but to a broader scope, including violation of procedures regarding the right to know grounds for arrest, right to hire an advocate, right to medical care, and of procedures to be maintained during criminal proceedings involving children and women. The police authority has been taking all necessary measures to prevent from torture involving its staffs. As mentioned above, it conducts investigation proceedings in accordance with internal review and information delivered by citizen or organization and transfers the case to competent organs for further hearing and punishment. The case related to law enforcement officers is reviewed by the Investigation Unit at the GPO of Mongolia.

94. (Within Part O of the Recommendation) the students, who study to become police officers, now shall be taught a subject "Human rights and torture", which has been officially added in the curriculum of related organs of the police authority in the academic year 2009-2010. The students are subject to examination and shall be provided with textbooks and stationeries. With participation from NGOs, the trainings on human rights conventions, CAT and NAPHR have been organizing regularly among staffs of the MPD and donation of 150 books in 11 kinds of subjects to police book fund gives great concern on raising the human rights knowledge of newly recruited staffs.

95. (Within the Part P of the Recommendation) the human rights subjects have been set in the curriculum of Police Academy of Mongolia. Since the Mongolia's accession to the CAT, police authority deeply concerns on the idea of the Convention. A prosecutor reviewed system to receive information or complaint regarding torture by chiefs of inquiry or investigation authorities is to be formed successfully hence with involvement of NGOs. On the other hand, the scope of advertisement against torture has been broadening by the participation of policemen, prosecutors, judges, inquirers and investigators.

## **VI. National human rights priorities**

96. NAPHR of 2003 is a Constitution-based national capacity strengthening document for human rights and freedoms, which consists of 4 chapters and 240 articles. The Committee comprises of 30 members from governmental, local and NGOs works in charge of its overall implementation. The NAPHR Action Plan of 2009-2010 contains 100



activities set in 49 objectives and in order to implement this one effectively, an active participation by above entities is required. In this regard, the Government hosted a meeting “NGO Participation in the Implementation of NAPHR” in 2009.

97. An ambiguous point of view exists in Mongolia, whether it should abolish death penalty or not. Although the President of Mongolia, within his power in Constitution, has declared moratorium on death penalty, in order to realize his initiative Mongolia must amend its related legislation, including the Criminal Code domestically and make its accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty internationally.

98. An ecological imbalance resulting from climate change, desertification, water resource shortage, improper use of chemicals, hazardous waste, water and soil erosion etc, entails great danger to citizens’ right to healthy and safe environment. A survey by the SSIA clearly shows that pollution is at high level in the capital city of Ulaanbaatar, of which mostly from 3 thermo-electric power plants, 160000 ordinary heating stoves used in *ger*-areas (traditional Mongolian tent), approximately 120000 means of transport, 1500 low or medium pressure heating stoves, plain dust and roughly 260000 tons of toxic chemicals in the air originated from exposed garbage. Since 2006, in order to reduce air pollution, the Government along with local authorities have been spending 2-3 billion tugrugs each year to support smokeless stoves and compressed fuel industries, construction of modern apartments, and “Green Wall” Programs. But still there is no positive result.

99. The River Tuul was seriously polluted due to examinations carried out by the competent authorities in 2007. For example, 2-3 tons of fish died to extent of 40 kilometers as some factories spill their waste water directly into the River Tuul. As of 2000, 11.6 percent (highly) and 2 percent (extremely) of eco-system of the Steppe Zone, which is 33.8 percent of the total territory of Mongolia, were degraded respectively due to improper human activities. On the one hand, it is related to consciousness of people, and on the other hand, it proves inadequate implementation of legislation, policy or program and insufficient budget. Also, individuals play roles in degrading environment using unauthorized chemicals at gold mines. As a result, families engaged in artisan mines tend to have brain-paralyzed, mentally-ill or naturally disabled babies, which may severely affect the genetic sources of the Mongolians. Therefore, the Government of Mongolia is implementing activities step by step to address and overcome these problems. The budgetary resources for the protection of citizens’ right to healthy and safe environment must be increased further.

100. Participation by the relevant organizations is vital in the protection of the rights of persons with disabilities and hence, in order to promote their rights, the special legislation and political, economic and social, as well as infrastructural and psychological environment are much needed.

101. A traditional understanding that women must be responsible for overall family affairs, including taking care of children is still dominant in Mongolia while sexual harassment at workplace is quiet invisible. Gender equality has been difficult to be estimated as gender-classified data is too unclear and indistinct. Because of poverty and unemployment, divorce rate is growing high and women are becoming victim to domestic violence and human trafficking. The lack of law enforcement and ability to protect rights leads to the violation of women’s rights, such as labor rights, right to medical service and healthy and safe environment. Furthermore, an adequate gender ratio must be maintained at health and education sectors, where majority employees are women.

102. According to the survey of Maxima Center of Mongolia, which was made upon the request of Asia Foundation of the USA, not only public, but also police staff at all levels expect that police authority be fundamentally reformed. The survey participants have made over 20 proposals regarding strengthening the activities and structure of police. The

participants in the survey consider that “discrimination” is the negative tendency in the police authority. The Government will draw special attention to a criticism concerning independent nature of police authority in particular police officers serve those who have power and money. The Government will take concrete measures in this regard.

## **VII. Universal Periodic Review: Commitment of Mongolia**

103. Mongolia will actively participate in the UPR process and devote its full effort in implementing proposals and recommendations of the Human Rights Council. In order to promote and protect human rights and freedoms globally, Mongolia shall engage itself in close cooperation with other countries, UN and its specialized agencies, and NGOs.

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