

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA



**12<sup>th</sup> REPORT ON HUMAN  
RIGHTS AND FREEDOMS  
IN MONGOLIA**

Ulaanbaatar  
2013

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

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## EXECUTIVE SUMMARY

The National Human Rights Commission of Mongolia (NHRCM) considered the 12th Report on human rights and freedoms in Mongolia at its meeting on 31 March 2013 and duly submitted it to the State Great Khural (State Parliament).

This report has been developed on the basis of investigations and research conducted by the NHRC, including statistics, information and reports gathered from Government agencies in following-up to the implementation of recommendations, as well as from studies and reports from civil society organizations, media reports and complaints from citizens. It is composed of 4 chapters, namely “Mining and human rights,” “The Rights of children,” “The situation of the human rights of LGBT people in Mongolia,” and “The implementation of the recommendations of the United Nations Treaty Bodies.”

*The Report covers the following human rights issues in Mongolia.*

**Chapter one draws out the impacts of the mining industry and how it affects human rights.** The mining sector contributes to the socio-economic development of the country, however, it is evident that environmental degradation and serious violations of individuals’ rights to live in a healthy and safe environment, the right to health, the right to land ownership and cultural rights are being violated due to a lack of appropriate State policies and irresponsible mining.

**Chapter two presents the rights of children.** The situation on the implementation of the rights of children studying in religious schools, including temples and monasteries, and the rights of children with disabilities to education, the right to a healthy and safe environment, social development, participation, and protection, as well as issues related to the safety of child jockeys are documented.

**Chapter three reflects the situation of the Rights of LGBT people in Mongolia.** In every sector of society LGBT persons are

subjected to discrimination because of their sexual orientation is not accepted in public, and their dignity and privacy are under constant assault, humiliation, and in some cases even lead to domestic violence. We included the issues of the rights of LGBT persons here because the current situation requires state policy and action in preventing from discrimination and ensuring effective enjoyment their human rights and freedoms.

**Chapter four includes the implementation of the recommendations of the United Nations Treaty Bodies to the Government of Mongolia.** the UN Committee against Torture, the Human Rights Committee and the Universal Periodic Review of the Human Rights Council, compiling the recommendations according to human rights thematic issues. The Commission was concerned that the implementation of recommendations was not being effectively pursued by the Government.

Pursuant to provision 13.1 of Article 13 of the *Law on the National Human Rights Commission*, 13 recommendations covering the above human rights issues in the report have been submitted to the State Great Khural for its consideration and action.

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

**CHAPTER ONE**  
**MINING AND HUMAN RIGHTS**

**“the right to life.”**

(Article 16.1. The Constitution of Mongolia)

**“the right to healthy and safe environment, and to be protected against environmental pollution and ecological imbalance.”**

(Article 16.3. The Constitution of Mongolia)

**“the right to the protection of health and medical care.”**

(Article 16.6. The Constitution of Mongolia)

**“The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, for the prevention of violation of human rights and freedoms and to restoration of infringed rights.”**

(Article 19.1. The Constitution of Mongolia)

The mining sector contributes to socio-economic development of the country, however, it is evident that environmental degradation and serious violation of individuals’ rights to live in a healthy and safe environment, the right to health, the right to land ownership and cultural rights are violated due to lack of proper state policies that fail to regulate irresponsible mining.

In its 11<sup>th</sup> report on human rights situation in Mongolia, the National Human Rights Commission of Mongolia discussed the problem that fundamental rights provided in the Constitution of Mongolia, are strongly affected in the mining sector, however, socio-economic development will be under the auspices of mining industry.

In 2012, the NHRCM conducted study of the situation of human rights and freedoms as relates to mining in 15 soums of eight provinces jointly with civil society organizations and a research organization. The NHRCM appreciates the UNDP support to carry out the study. Our thanks extend also to “Sustainable Artisanal Mining Project” of the Swiss Development Agency also supported field studies in UyangaSoum of Uvurkhangai Province and ZaamarSoum of Tuv Province.

The results of the study were incorporated into the current report. The report also refers to reports and research findings of government and non-governmental organizations. This report aims at looking at negative impacts of mining on the right to healthy and safe environment, to be protected from environmental pollution and ecological imbalance, and cultural rights of herders to exercise the nomadic customs and traditions.

### **1.1 The right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance**

Right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance is guaranteed in the Article 16 of the Constitution of Mongolia. The International Covenant on Economic, Social and Cultural Rights also provides for the improvement of all aspects of environmental and industrial hygiene (12.2.b) Moreover, Article 19 of the Constitution of Mongolia provides that “The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, for the prevention of violation of human rights and freedoms and to restoration of infringed rights.”.

It means that the state shall create conditions for its citizens to live in a healthy and safe environment and to ensure that this right is not violated, set up accountability regulations and make available effective remedy, provide access to information to the public, involve them in decision making, disseminate human rights knowledge and awareness.

Environmental degradation is accelerating in recent years due to climate change, global warming, and human actions such as irresponsible mining which causes land and pasture degradation, water deficiency and air pollution. According to the annual report of the Mineral Resource Authority, 3537 licenses were issued as of January 2013 covering 20.1 million hectares of land. In some provinces, most parts of their territories are allowed for mining activities. This demonstrates failure of planned and well-coordinated public policy. For instance, about 40 percent of the territory of Gurvan Tes Soum of Umnugobi Province was given away for mining licenses by 11 companies which covers 1.1 million hectares of land out of total territory of 2.8 million hectares of land. At the time of the field study only three of these companies had started their operation. It would not be possible for local people to run herding in this territory when the remaining eight companies start their mining operations.

The original structure and natural beauty of the environment is lost and degraded, and also there is high risk that humans and animals fall into holes, pits and channels created by the mining operations. It is already a usual matter and license holders have neglected to pay compensation. Failure of the mining companies to do organize biological and technical rehabilitation show that government inspection is insufficient.

According to the Minerals Law of Mongolia, companies are responsible for rehabilitating the destroyed land and environment after mining exploration and excavation; and government agency in charge of environmental issues, Soum, district Governors are responsible for monitoring the implementation of the Law. However in reality the implementation of the law is insufficient. The results of the NHRCM study shows that there are 46.7 hectares of land in Airag Soum of Dornogobi Province, 562.6 hectares of land in Uyanga Soum of Uvurkhangai Province, 500 hectares of land in Bayan-Ovoo Soum of Bayankhongor Province left without any rehabilitation.

According to Article 38 of Minerals Law of Mongolia, the holder of the special license for exploration of the natural resources is obliged to pay a deposit for environmental protection activities to the

local government; and holders of the special license of utilization of the natural resources is obliged to pay the deposit to the central government agency in charge of environmental issues. In the case of violation of the duties to protect the environment, local and central government are authorized to use this fund for restoration of the environment. Any additional funding needed for environmental restoration related to the activities of the companies involved must be withdrawn from the license holder without any negotiation. However, the implementation of the law is insufficient.

The illegal practice of subleasing of mining areas and the transfer of license of mines to others cause damage without accountability and leads to unorganized and illegal artisanal mining, lack of monitoring of extractive operations, tax evasions, and avoidance of responsibilities to carry out environmental rehabilitation.

In addition, local administrative bodies don't give a chance to assist with the process of appointing the citizen representative in charge of monitoring the "license holder and environmental reclamation process" stated in Clause 42.3 of the Minerals Law of Mongolia, and provide the 'citizen representative' with an opportunity to inspect the operations of mining companies and the reclamation process.

Another major reason of environmental degradation caused by mining industry is related to the transportation of natural resources. To take example of only two provinces (7 Soums of Dundgobi Province and 9 Soums of Dornogobi Province), rocks with 40-100 ton capacity are transporting natural resources and mining equipment on 15-32 crossroads with width of the 30-150 meter each. About 245 km long tarmac road were built from TsogttsetsiiSoum of Umnugobi Province to GashuunSukhait (Umnugobi Province) Border Port, but currently only "Energy resource" and "ErdenesTavanTolgoi" companies are using this road to carry coal. Other companies carry their coal off-road saying that they had not concluded agreement on transportation with the road company and that the road charges are high. It is getting harder and harder for humans and animals to live in the territories of these six soums where

the coal transportation goes through as the off-road transportation causes soil and pasture deterioration, huge dusts in the air. Today, there are 6122 trucks belonging to 66 companies shipping coal between Tavantolgoi site and the border checkpoint at GashuunSukhait Border Port. In some places where the road is paved with gravel, dusts, soil and air pollution has not been reduced (Tayannuur mining of “AltainKhuder” Co., Ltd to Burgastai point). This is the situation happening in a few provinces only. It would be much worse if number of trucks and amount of lands destroyed in the territories of other provinces and soums are added together.

Local physicians in Dornogobi Province noted that pneumoconiosis is growing rapidly among citizens due to dusts raised in the air and spars burned by mining companies. In the future, licensing regulation needs to ensure that infrastructure issues, including railway and roads, have been fully resolved to the satisfaction of local residents prior to the exploitation of large scale mineral resources such as coal and iron ore. In particular the sufficient load-bearing capacity of roads must be built to allow mining trucks to make shipping without causing damage to the environment.

Local people regrettably note that many hundreds and thousands of wild horses, and antelopes that used to live in the territories of Nomgon, Bayan-Ovoo and Gurvantes soums have now disappeared. The results of research conducted by the Ministry of Environment and Tourism on identifying the scope of damage due to coal transportation in Umnugobi have shown that harm totaling to 58.1 trillion MNT was done to the environment: harm to tenure land (5.4 trillion MNT), soil (20.4 trillion MNT), flora (11.1 trillion MNT), fauna (18.7 trillion MNT), atmosphere (2.5 trillion MNT) and total of 35250 hectares of land was destroyed along the 235 km long road from Tavantolgoi to Tsagaankhad.

The National Development Policy based on MDGs notes the importance of protection of water resources from pollution, rational use of water and ensuring water supply which meets health and hygienic requirements of population. According to the 2011 water counts, 551 out of registered 6646 rivers, 1879 out of registered 9320 springs, 483 out of

registered 3613 lakes were found to be dried up due to changes in water flow, resource and quality aspects caused by climate change, as well as industrial operations.

Surface-water is scarce in the Gobi region due to unequal distribution of water resources. Despite this, mining industry, which is considered as the key pillar of the country's development, is concentrated in the Gobi region where there is serious lack of surface-water. This means that it is imperative for the mining policy to take into account the scarce water resources of the Gobi region. Otherwise, enormous damage will be made to Gobi eco-system that will lead to high risk of negative impact on health, living conditions of local people, social dynamics and even the national security of the country.

United Nations' General Assembly recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights, through its resolution 64/292 adopted in 3<sup>rd</sup> of August 2010<sup>1</sup>. But inquiry carried out by the NHRCM found out that this right is under serious threat in mining regions.

The Ministry of Nature and Environment have noticed that it needs to take areas of the water sources - which provide 70% of Mongolia's surface water - and underground fresh water resources under special state protection. As well as, it's time to regulate compulsory and transparent reporting of the actual expected water usage during the exploration process and the ongoing water usage by mining companies and other relevant organizations at regular intervals.

The Professional Inspection Agency at the central and local levels, and the Weather and Environmental Analysis Agency, and Environmental Metric Central Laboratory and some other relevant agencies conducted monitoring and evaluation on the living conditions of local people including the levels of soil, air, and water pollution of the areas, where mining operations are concentrated.

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<sup>1</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/64/292](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292)

The Professional Inspection Agency conducted study in the air near Customs inspection point at Khairkhan bag of the Khanbogd Soum, Umnugobi Province in 2012 and found out that the average content of dust-cloud with large particles was 45 times higher and dust-cloud with small particles was 34-35 times higher than the MNS 4585:2007 standard on “Air quality: General technical requirements”. It was concluded in that this caused pollution in the air, and high risk to the quality and safety of soil and water as well as damage to the health of the local population.

The local people critically note that the results of the above mentioned studies were not widely disseminated to the public including local administration and local people and it is one of the examples of that Government agencies’ are lacking initiatives in ensuring the local people’s right to access to information.

Moreover, companies and individuals running mining business do not follow the procedures of using, storing and disposing the poisonous and dangerous chemical substances without causing danger on human health and environment. The Ministry of Environment and Tourism conducted review on environmental protection, utilization and storage of poisonous chemical substances of companies running mining and oil business in 8 Provinces in 2011. The result showed that 30.7 percent of the companies did not act as required. Also, according to the Ministry report on “the Status of Environment in Mongolia: 2008-2010”, there are about 200,000 tonnes of salvage polluted by mercury and cyanide at 120 points of 10 Provinces territories and 53 hectares of land and many wells are polluted because of mining industry, especially gold mining. The report noted further that there is a high risk of rivers and lake basins polluted by cyanide and sulfuric acid and other poisonous substances become permanent sources of pollution as gold mining expands and grows. Thus, the state shall pay special attention to the conditions where the poisonous substances used in the mining are causing serious danger on living conditions, drinking water, health and life of local people. It is necessary for government agencies to fulfill their obligations under the Law to regularly monitor the process of using, storing and disposing poisonous and dangerous

chemical substances and ensure the openness of information to the public and strengthen the accountability mechanism.

**Case**

Drivers scoop water with gasoline cans. Then water is contaminated and unfit for drinking. But there is no other coffer well around and we have to use the water.

*Interview with an herder in Gurvantes Soun, Umnugovi Province. 2012*

Moreover, crimes and accident related to exploration and transportation of mining products are increasing. There are many cases of death and injury of being hit by coal transportation trucks, and falling into quarries, water-holes, and holes and channels created by drilling and digging.

Total 350 road accidents were registered within the first 9 months of 2011-2012 in Umnugobi Province, and 190 or 54.2 percent out of these occurred in the coal transportation road from Tavan Tolgoi mining site to Gashuun Sukhait port and from Nariin Sukhait mining site to Shivee Khuren point. These accidents caused death of 26 people and serious and mild injuries for 44 people. Let us compare the figures to that of Zavkhan Province, where there is comparatively high ordinary transport and travel, but no mining transportation. Total of 131 road accidents were registered in Zavkhan Province within the first 9 months of 2011-2012 with 9 deaths and 18 cases of serious and mild injuries. This shows that the number of registered road accidents in Umnugobi Province is 2.7 times higher than that of Zavkhan Province and the number of road safety offenses are 3.8 times higher. In other words, there is a high risk of road safety on the coal transportation in Umnugobi Province that leads to a number of deaths and injuries.

Research shows that humans and animals accidentally fall down into channels and holes created by mining because of the failure of the companies to take safety measures related to their mining operations. According to the Article 36 of Minerals Law of Mongolia, companies are

obliged to place mining site boundary markers. However, it has become common practice for the companies to dig deep holes or channels around their sites to mark the boundary. The absence of detailed regulations and standards of marking the mining site boundaries result in deaths and injuries of people and animals who accidentally fall down into deep holes.

Another cause for such deaths and injuries is the water-filled holes created by drilling. Two small children of a herder's family of Gurvantes Soum, Umnugobi Province fell down and drowned in such a hole. This family also lost another son because of motorcycle accident on a non-standard speed bumper constructed by a mining company. But no one had taken accountability for these cases and the cases were dismissed in the police.

All these facts demonstrate that the rights of local people to live in safe environment and right to life are under serious risks due to mining operations and technology used in the industry. Government policy and actions including protecting its citizens, making adequate compensation available for the damage suffered, enforcing laws and regulations, taking accountability for offenses are seriously lacking despite the fact that people are suffering by their lives, health and properties.

In the event of loss of life, and where psychological and physical damage have occurred due to mining activities, the rights to a remedy and the type of remedy need to be clearly defined by the State. Furthermore, there is an urgent need to create enforceable regulation to ensure environmental restoration is done by mining companies in extraction areas to repair holes, channels, dikes, stockpiles and soil erosion. It is important to ensure public participation throughout the process. There must be a penal mechanism for the failure to comply with these obligations such as serious legal consequences, including substantial fines, annulment of existing licenses, non-issuance of future mining licenses to the offending company. An independent monitoring system must be in place with broad social representation.

## **1.2. Issues related to right to health of people living in the areas of mining operations**

The right to live in a healthy and safe environment relates to the right to health because environmental degradation has serious impact on human health. The right to health is not only limited by health care services and it extends to conditions for healthy life such as nutrition and food, drinking water, accommodation and working conditions of good quality. According to the Clause 2 of Article 12 of International Covenant on Economic, Social and Culture Rights, state parties are responsible for taking steps necessary for the prevention, treatment and control of epidemic, endemic, occupational and other diseases and the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Inquiry by the NHRC and research by other agencies have confirmed that the right to health is affected due to mining exploration, extraction, and processing and transportation activities. Dust and other hazardous materials are released to the atmosphere from pollution sources, including soil removal, drilling, explosion, smelting and tailings, during mining exploration, extraction, and production and transportation operations. Earlier in this report it was discussed about air and environmental pollution and improper utilization of hazardous and toxic substances. Particle matters emitted from these sources tend to cause respiratory diseases, such as bronchitis or pneumoconiosis, and damage to internal organs (liver, kidneys) which ultimately lead to cancer. For instance, according to the health statistics of Umnugobi Province Health Department, 1,148.5 cases of respiratory diseases were registered per 10,000 persons who are 3.5 times higher than the national average. Moreover, respiratory disease accounts the major cause of overall deaths.

In mining-affected soums, the existing capacity, equipment and budget for health services are insufficient and poor. Currently, the soum hospital staff, budget and services which are designed to serve about 3,000 people cannot meet the needs of services in soums with high influx of migrant workers due to mining. In addition, soum hospital equipment

and facilities supplied in the 1980 shave become old and worn out. Therefore, it's necessary to improve access and quality of health services urgently.

## CHAPTER TWO

### CONCERNS OVER CHILDREN'S RIGHTS

**“The Right to Education. The State shall provide basic general education free of charge. Citizens may establish and operate private schools if these meet the requirements of the State”**

(Clause 7 of Article 16 of the Constitution of Mongolia)

**“The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, to fight against violations of human rights and freedoms and to restore infringed rights”**

(Clause 1 of Article 19 of the Constitution of Mongolia)

**“Special measures for the protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their mental or physical health or dangerous to their life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law”**

(Clause 3 of Article 10 of International Covenant on Economic, Social, and Cultural Rights)

The implementation of the rights of the child requires special attention by the State, as children are incapable of protecting their own rights and require special care and protection, particularly, legal protection. Mongolia has legislated basic standards on the rights of the child in compliance with core international human rights treaties and international legal norms.

While the Government of Mongolia has taken a number of important measures to protect and develop the rights of children, there are many violations of the rights of children in connection with the current economic and social situation in Mongolia, including unemployment and poverty.

At the special session concerning children's issue at the United Nations General Assembly convened in 2002, all nation states set up a goal to build up child-friendly world in XXI century.

Thus, States place special importance on providing education for children and emphasize the importance of the development of every child in order to prepare a new generation than can bring positive change in society. For example, by ensuring every child enjoys his or her right to education they are empowered to realize their full potential and enjoy other rights without limitation. The state must guarantee the rights of children through its legislation and ensure they enjoy their right to a healthy and safe environment, to prevent human rights violations. However, these duties apply not only the State but also parents, guardians, family members, and others who have social relations and responsibility for children.

In 2012, the Commission, with the support of the UNDP and UNICEF, the UN Children's agency, and in cooperation with "All for Education", the Mongolian National Civil Society Coalition, the National Centre for the Rights of Children, and the Mongolian Association of School Social Workers, conducted an inquiry and monitored the implementation of the rights of children studying in religious schools, including temples and monasteries, to education, a healthy and safe environment, social development, participation, and protection.

In addition, the Commission also organized an inquiry into six general education schools with special curriculums<sup>2</sup> in Ulaanbaatar for the purpose of assessing whether the rights of children studying were being upheld in compliance with the Constitution, *Convention on the*

<sup>2</sup> Schools No 25, 29, and 116, in Sukhbaatar district, School No 63 in Khan-uul district, School No 70 in Bayangol district, and School No 55 in Bayanzurkh district

*Rights of Child, Convention on the Rights of People with Disabilities,* and other legislation.

Furthermore, the Commission also considered human rights issues related to the safety of child jockeys.

## **2.1. Children studying in monasteries and temples**

Beside children who study in general education schools according to law, some of the children are acquiring religious education in monasteries and temples as disciples. Findings from the inquiry and research undertaken reveal children's right to an education as well as other rights has been violated.

The Commission conducted inquiries and monitoring in 50 Buddhist, 7 Christian, and 1 Islamic religious organizations in the capital city and rural areas. The survey involved approximately 290 children studying in Buddhist monasteries and temples.

Mongolia guarantees freedom of religion in its Constitution and regulates the relationship with respect to the implementation of this freedom through the *Law on the Relationship between the State and the Monastery* adopted in 1993.

Article 8 of the Law states, "Religious school shall be in charge of providing general education for its students. The state central administrative body shall provide certain part of the required costs and teaching personnel and professional oversight." Clause 18.4 of the Article 18 of the *Law on Education* states, "Relations to provide primary education to the students of religious schools shall be regulated by this law and the *Law on the Relationships between the State and Monastery.*"

**Table the Number of children studying in religious schools and monasteries<sup>3</sup>**

Age groups	The number of students in religious schools and monasteries									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total	248	465	4999	5635	261	2251	1820	273	1564	1362
Below 8	29	89	23	196	284	25	2	1	0	15
Between 9 and 12	152	287	292	345	632	159	93	117	260	74
Between 13 and 15	330	645	1173	1265	1051	435	450	593	363	372
Above 16	737	3444	3511	3829	4294	1632	1275	562	941	901

Children studying in religious schools, monasteries and temples are generally provided with general education through at the religious schools at the monasteries and temples or through an informal education programme. There are cases of some children who drop out of their studies without acquiring a general education.

There were even cases of children who joined the religious school from as early as 6 years of age but never gone to school. Furthermore, there is a common attitude among the religious teachers that basic education is not necessary and religious learning is sufficient to ensure children’s future livelihood.

**Case:**

“General education is unnecessary ... and unhelpful. Instead, religious education is helpful for the livelihoods of these children. At least it can help them live on their own. In truth, I don’t support state provided education....”

*Focus group interview with “Monk teachers”,  
Darkhan soum, Darkhan-Uul province*

<sup>3</sup> National Statistics Office of Mongolia, National statistics Bulletin Ulaanbaatar 2005, page 304; National Statistics Bulletin Ulaanbaatar, 2009, page 345.

**Case:**

“We wish these children to acquire religious education at the level they can live without others’ help. We can’t afford to ensure that they go to school.”

*Focus group interview with “Administrative staff of a monastery”,  
Chingeltei district, Ulaanbaatar*

**Case:**

“Enrollment in university or college requires a secondary education certificate. Our disciples are involved in a distance learning centre. Sometimes they can not catch up to their programme. However, we organise their testing a few days before the exact test date.”

*Focus group interview with “Administrative staff of a monastery”,  
Arvaikheer, Uvurkhangai province*

The building of two institutions involved in the inquiry was assessed as of poor quality and their use is prohibited by the Specialised Inspection Agency. Some schools run by monasteries and temples were found to have poor conditions with inadequate natural light or situated in the basement of blocks of flats.

**Case:**

“Classrooms of school No 112 are not well equipped and lack lighting due to too small windows. Even though there are sufficient number of tables and chairs, they are in very poor condition, and the school’s furniture is too small for those students of upper grades (high school students). The school has a toilet outside, has no gym, it requires water to be carried by hand, and the conditions of the building is in dilapidated state. Even though the Specialised Inspection Office released a recommendation to demolish the school building in 2010, there has not been a final decision on this as the building is a historical site dating back to 100 years ago.”

*Focus group interview “Administrative staff”, Chingeltei district, Ulaanbaatar*

There are only 2-3 professional teachers working in the schools at the monasteries and temples. Textbook supply and the salary of teachers are inadequate, funded by the variable costs provided by the government and donations by devotees. For example, at School No 112, the administrative

staff said that the funding by the state budget was not sufficient. Although teachers from informal education centre teach the monk students, it was noticed during the interviews that they conducted lessons in a half hearted manner, as they had no real aspiration to help the children learn.

While some organizations involved in the inquiry provide comfortable modern desks and chairs to the students and most of them don't have such facilities. It is important to note that traditional desks and chairs could negatively impact the normal physical growth of a child. 19 monasteries and temples have decent classrooms, black or white boards, and other teaching aids, such as wall-charts. As for others organizations, they do not have a sufficient number of classrooms, tables, and chairs, and lack teaching aids and other resources.

In most religious organizations, the accommodations of students do not meet current standards and requirements. For example, there were some cases in which 7-10 children were placed in a 12 meter squared dormitory room, and some cases of even worse conditions. Islamic and Christian organizations, rather than operating a boarding school, run their activities by organizing events for devotees such as meetings, assemblies, sermons teachings, and discussions on Saturday and Sunday and carry out activities to advertise their religion. As for Buddhist monasteries and temples, monk children study by coming to the monasteries early in the morning when the morning service begins, residing at the monasteries on work days, spending weekends at home, and living in the dormitory of the monastery or together with the adult monks.

Most of the religious organizations involved in the monitoring do not have cultural and extra-curricular facilities such as a library, gym, and cultural hall, and monk children are required to assist with cleaning, carrying water from the well outside.

It was revealed by the inquiry that children studying in Buddhist monasteries and temples were subjected to various forms of harassment by monk teachers and administrative staff such as guards, cleaners, and cooks. Sometimes monk children are forced to do house chores for the

teachers and others in the monastery.

During the interview the children reported that they are supposed to follow what elders say, or face scolding, beating, and punishments. As such, many had developed coping behavior including not talking when people older than them were around, being silent, and not expressing their opinion. The Commission considers that this sort of social setting in some religious organisations is not an appropriate environment for the children.

**Table. Types of punishment experienced by monk children**

<b>What type of punishment do you usually receive?</b>	<b>Children</b>	<b>Percent</b>
a. Forced praying	193	66.5
б. Whipping with a belt	1	0.3
в. Forced cleaning	36	12.4
г. Forced cooking	0	0
д. Beatings	3	1.0
e. Others	48	16.5
<ul style="list-style-type: none"> <li>• No punishment - 34</li> <li>• Warning – 1</li> <li>• Correct my mistakes - 1</li> <li>• Oral explanation - 1</li> <li>• Whipping with bush - 1</li> <li>• Scolding - 1</li> <li>• repeatedly flicked on their forehead - 2</li> <li>• Whipping with prayer beads - 4</li> <li>• Clawing on the back of neck - 2</li> <li>• Raising hands - 1</li> </ul>		

***Case:***

“At the invitation of Tugsbayasgalant Female Buddhist Monastery, Namgya Gongpo Botte (also known as the Mongolia alias Monk Dengee), a citizen of Nepal came to Mongolia on 21 February 2006 and was given labour permission until 21 February 2008. During that time, he identified T.M, a citizen of Mongolia, as a reincarnation of his own teacher Dandar Lharamba Ringpoche. Until 2010 he carried out services for devotees and followers inside the wall of Gandantegchinlen Monastery and gave T.M religious education on the basis of tutoring .

On 23 December 2009, he beat and hurt the boy for not memorising the teachings. When the parents of the boy visited him, they found their son with bruises and a bulge on his head and body. They took photos and lodged a complaint to the Ministry of Justice and Home Affairs on this issue. The Agency on Foreign Citizens and Nationals conducted relevant inquiries.

As a result of the inquiry, it was revealed that Namgya Gongpo Botte, a citizen of Nepal, caused physical damage to T.M, whom he identified as his teacher’s reincarnation. Furthermore, he was not working at the organization for which he was issued the permission to work, and he had lodged forged documents because he renounced his citizenship of Nepal in order to provided with the status of a stateless person. He was deported from Mongolia with a 10 years ban from reentering the country, by decree No 30 of Minister of Justice and Home Affairs for “carrying out illegal activities to gain profit, gaining advantage of religious belief and devotion of people....”.

*Official memo 1/1672 delivered by Agency on Foreign Citizens and Nationals Affairs in 2012*

***Case:***

The Court established that the Far East Broadcasting Company of Mongolia treated rudely with 29 children it was taking care of and ran activities inconsistent with its rules and regulations.

*Decision No 122 released by Metropolitan Administrative Court in 2010*

Religious organizations do not have unified regulations to prevent child abuse. Furthermore, it is a common that these organizations require children to abide by internal rules they developed for adults and their staff. It was obvious from the responses of children during the interviews, that monk teachers and staff had limited or no knowledge of positive teaching methods and trends.

Children studying in religious schools and monasteries were found to be harassed, bullied, and assaulted physically and verbally, by not only teachers and staff, but also by devotees and their peers. In addition, it was found that children’s requests and complaints in cases of violations of their rights went unheard and unresolved.

As seen from the fact that 46 organizations only provided very brief information on the survey form, it is clear that monasteries and temples do not carry out registration and questionnaires on their students. Moreover, there was a student who had been provided with no contact with his parents. Although a proctor of the monastery is responsible for the welfare of monk children, he often doesn’t provide children with individual attention and does not get in touch with their families on their behalf.

In terms of healthcare, the students receive medical service from local clinics or healer monks in the monastery. Some organizations do not have a professional medic, and there was once case of a foreign volunteer without medical license appointed as a physician. Furthermore, these organizations don’t have any proper medicinal supply and don’t have essential equipment necessary for the provision of medical services.

<b>Whom do you tell when you feel ill?</b>	<b>Children</b>	<b>Percent</b>
a. Peers	6	2.0
b. Upper classmen	2	0.6
c. Teachers	129	44.4
d. Physician	141	48.6
e. No one	6	2.0
f. Unfilled	6	2.0

<b>What measures does the monastery/temple take if a student is sick?</b>	<b>Children</b>	<b>Percent</b>
a. It gives medicine	64	22.0
b. Provides a physician	141	48.6
c. Sends to a clinic	97	33.4
d. It does not do anything	8	2.7
e. I don't know	21	7.2
f. Miscellaneous	20	6.8
g. Unfilled	3	1.0
e. No idea	21	7.2

Even though there are relatively few numbers of children studying in Mongolia, these children are now in position where they will be left behind, without the social development need to fulfill their potential in the modern world. Their lack of education means that they will be incapable of acquiring knowledge and skills to take part in social life to their full potential.

Due to the fact that issues connected with children studying in monasteries and temples are excluded from the attention of the government, and religious organizations give priority only to religious education, they are not able to acquire an adequate level of education to meet society's requirements. As such, many children's rights have been violated. In order to redress this violation, it is essential that general education schools with religious curriculum be established in each region at the national level.

## **2.2. Children with disabilities**

In Mongolia there are 35 laws that regulate the rights of persons with disabilities to education including the Constitution, including the *Law on education, Law on Primary and Secondary Education, Law on Higher Education, Law on Professional and Vocational training, Law on Pre-school education, and Law on social welfare of persons with disabilities.*

There are also 20 programmes addressing the rights of persons with disabilities including the Programme to support persons with disabilities,

Sub-Programme for participation of children with disabilities, and so on. These regulations embody various aspects of the rights of people with disabilities. For example, Article 5 of the *Law on Education* states that “The education of Mongolia, humane, democratic, continuous and sufficient in nature, ... shall be free, accessible and variable adjusted to individual and development specialties, type of education and needs of the learner...Mongolian citizens shall all be given equal opportunities of receiving education in their mother tongue, and they shall not be subject to educational discrimination on account of race, creed, age, sex, social status, economic position, employment status, religion or opinion ...” This basic regulation allows for an education system that fits the special needs of people with disabilities and protects their basic rights. In addition, Article 7 of the *Law on Social Welfare of persons with Disabilities* also protects people with disabilities’ right to education in detail.

Article 24 of the Convention on the Rights of Persons with Disabilities (‘CRPD’) specially defines the obligations of the State parties to ensure persons with disabilities’ right to education.

While some provisions of the national legislation protect the rights people with disabilities to education in compliance with concepts of the Convention, which Mongolia ratified in 2008, there are still many provisions and regulations that are inconsistent with the concept of the Convention. For instance, disabled students should be assessed according to their participation in social life, but they are currently assessed based on a medical model, including physical factors dependent on health.<sup>4</sup>

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<sup>4</sup> The **medical model of disability** is a sociopolitical model which, tends to believe it is solely essential to focus on curing the pain and impairment of the ill and disabled person and providing them with medical care well. Thus, its weakness is omission to consider the issue of involving the disabled persons in social relation.

<b>Definitions of Disabilities</b>		
<i>United Nations Convention on the Rights of the Persons with Disabilities</i>	Clause 3.1 of Article 3, the <i>Law on Social Welfare of the People with Disabilities</i>	Clause 3.1.9 of article 3, the <i>Law on Education</i>
Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.	Persons with disabilities include those whose ability to participate in society on an equal terms with others are restrained permanently or for minimum 12 months due to long-term physical, mental, intellectual or sensory impairments.	Learners with disabilities include those who lost mental, intellectual, or sensory ability due to the natural or genetic deprivation or whose learning opportunity is restrained because of damage to their physical organs.

According to the *Law on Education*, citizens must have access to free general education. Of a total of 505,409 children studying in 752 general education schools for 2011-12 academic year, 1 161 children with disabilities were in pre-school education institutions, 18 000 children with disabilities were in general education schools (7 500 with visual disabilities, 2 800 with hearing disabilities, 2 600 with verbal disabilities, 1 500 with mental disabilities, 2 100 with physical disabilities, and 1 500 with complex disabilities)<sup>5</sup>

It has been recorded that 2 400 children are studying in special schools providing children with disabilities special education in connection with their respective type of disabilities. The survey conducted at these schools indicated that 1 218 children were studying in these schools in 2009 and 1 618 children in 2012.<sup>6</sup> However, ascertaining the exact number of school age children with disabilities is difficult at a national level, and it is necessary to access reliable data to determine the number of children and adults with disabilities that have dropped out of school, recorded according

<sup>5</sup> 2011 Statistics, Ministry of Education and Science, Ulaanbaatar., 2012, page 19.

<sup>6</sup> Shadow report to be submitted in connection with the 3<sup>rd</sup> and 4<sup>th</sup> report of the Government of Mongolia to the UN Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child. Ulaanbaatar., 2008, page 20.

to their type of disability at the khoroo and the bagh level.

Through the monitoring conducted in the 6 special purpose schools in Ulaanbaatar in 2012, the Commission uncovered barriers including a failure to build up a favourable and accessible environment to live and study for students with disabilities. This was due mainly to the dilapidated condition of the school building and the government failure to allocate the necessary funding to undertake the repairs and modifications necessary, as well as insufficient human resources of professional teaching staff, a huge age gap between the students studying in the same class (age 6-30), and insufficient study aids.

<b>Background of the Schools (3 December 2012)</b>							
<b>School No.</b>	<b>Year of establishment</b>	<b>Number of total students</b>		<b>Number of the teachers</b>	<b>Number of teachers with special training who work with Children with disabilities</b>	<b>Dormitory</b>	<b>Special purpose vehicles</b>
		<b>The</b>	<b>Number of female students</b>				
25	1967	258	115	47	9	N/A	1 ordinary vehicle
29	1964	325	153	115	-	Dormitory that can house 300 students (Housing 162 students)	N/A
55	1976	530	-	58	4	N/A	N/A
63	1975	215	100	44	3	N/A	24 seat special purpose vehicle
70	1977	208	-	29	8	N/A	N/A
116	2004	53	45	53	3	Dormitory that can house 60 students (Housing 59 students)	N/A

The Government of Mongolia has committed to mainstreaming the participation of children with disabilities in educational activities with equal treatment, as required under the Convention. Under the Convention it is not obligatory for persons with disabilities to study in special schools, in fact the state party is obliged to create opportunities for children with disabilities to study along with children without disabilities. However, Clause 9.9 of Article 9 in the *Law on Pre-school Education* states that, "...Number of kids with a light form of disability cannot exceed 2 seats" meaning that there is a limit on the number of children with disabilities that can study in ordinary schools and kindergartens, contravening the Convention and creating barriers for these children to communicate and interact with children who do not have disabilities.

The responsibility of the Government for the segregation within these schools is now diminished as these schools were transferred from the governance of the Ministry of Education and Science to the district level.

As a result the Commission issues demands contained in 16 provisions (Appendix 2), to the Ministry of Education and Science, the Ministry of Labour, the Ministry of Population Development and Social Welfare, and the Ministry of Health, requesting them to take certain measures. In response, the ministries have started taking necessary steps to address the issue of segregation.

The Government, having included certain issues pertaining to children with disabilities in its action plan (2012-2016), has been working on implementation the Convention as follows: Under the "Rule of extra pay to the administrative and executive staff and cost system of special purpose educational institutions" adopted by Government Resolution 185 of 2012 it is stated that, "When issuing funding for a special purpose educational institution for children with disabilities, variable cost norms for a student shall be accounted 3 times, and this clause refers to ordinary schools and kindergartens where a child with disabilities study."

Furthermore, Clause 3.4 of Rule states, "...Costs for transporting children who go from home or a dormitory to a special purpose educational institution, to transport food staff of a dormitory, and the costs of medicines and sanitation services for children who live in a dormitory shall be accounted within the fixed expenses of the educational institution and included in the state budget." Clause 3.5 "... Costs to specially train professionals such as teachers, methodologists, teachers with special training to work with children with disabilities, social workers, and therapists in accordance with respective type of disabilities, shall be included in the annual budget of the educational institution based on the proposal by the state central administrative body in charge of education."

The Ministry of Education and Science has commenced implementing various activities such as the creation of the position of officer in charge of policy and planning for children with disabilities, and the position of research workers in charge of special purpose education issues in the Institute of Education and the Teachers' Retraining Institute. In addition, the Ministry of Education and Sciences has been implementing a policy to train teachers with special training to work with children with disabilities at the Teacher Training University of Mongolia. Some other steps have been undertaken to make available textbooks and school buses designed for children with disabilities.

Clause 42.1 of Article 42 of the *Law on Education* stating, "The building, technique and technology facilities of the educational institutions should meet the labor requirements of teachers, workers, students and the special needs of the disabled students, and should meet conditions of hygiene and safety," complies with Clause 24.2.c of Article 24 of the Convention as it constitutes, "reasonable accommodation of the individual's requirements..." However, during the course of the Commission's inquiry into the schools, it was revealed that the construction facilities outside and inside the school buildings, sidewalks, stairs, etc didn't suit to the standards and requirements of children with disabilities. For instance, the schools were found to be inaccessible for children with wheelchairs, having neither a wheelchair ramp nor an elevator.

***Case:***

There are not only children with abilities but also a paralysed child with visual disabilities or a paralysed child that uses a wheelchair enters our school. Because there is not an access ramp in our school, either teachers or parents who are waiting for the end of their children's classes, must carry them upstairs.

*Focus group interview with "Teachers", Sukhbaatar districts, Ulaanbaatar city*

These special purpose schools do not have school buses appropriate for the needs and numbers of the students with disabilities. At the national level there is only one 24-seat bus for available for transporting children with disabilities. During focus groups, teachers mentioned that the students arrive at school feeling cold and shivering early in the morning, even though the bus picks up them by driving according to the scheduled route before the school commences. In addition, when the students arrive and leave school, the parents always accompany their children. Sometimes, students commute between school and home alone, get off at the wrong bus stop, and get lost, so it is important that the schools have buses for children with special needs.

Many schools have not carried out routine maintenance and/ or capital repairs for quite some time. The worn-out state of several schools' heating system, sanitation facilities, and air-conditioning negatively impacts the children's learning conditions. It was routinely reported during the inquiry that the schools are very cold during winter, lacking fresh air, and the toilet facilities were inappropriate and limited in numbers. As every child requires constant special care, teachers face difficulties when they need to escort a child to the toilet and other students are left without supervision.

School No 63 has developed and submitted projects to various organisations in order improve conditions such as the cold temperature inside the building which forces students to wear overcoats inside the classroom. As a result, with funding (700 million MNT) from the German Agency for International Cooperation and the United States Agency for International Development the school finished these renovations in time

for the 2012-2013 academic year. In addition, it built shower rooms using solar power equipment. Given the fact that it is state policy to provide funding for the relevant programmes guaranteeing the rights of persons with disabilities, schools should not have to depend on one-off funding from of development agencies of foreign countries and international organizations. The Government of Mongolia should include the required funding for these schools in the state budget.

Teachers also commented that although students of upper grades take subjects such as chemistry, physics, and biology, they don't have practical lessons because they lack specially equipped classrooms and have a limited number of classrooms.

**Case:**

Teaching a child with mental disability requires the same time and efforts as teaching 5 children at an ordinary school. While students of ordinary schools celebrate “their learning alphabet,” our students celebrate “learning their names.”

*Focus group interview with “Teachers”, Khan-Uul district, Ulaanbaatar city*

The schools often try to improve the classrooms and inner side of the school in compliance with special needs, but there is a need for assistant teachers due to the fact that there is no dormitory and/or buses, and because of the special needs related to the working with children with disabilities, including methodology, services, and security in the schools.

Through interviews with the managers and staff of the schools and detailed information of the students, it was found that one teacher works on average with 8-12 students, due to the recent growth of children with disabilities and the increase in the number of children with complex disabilities such as hearing disabilities along with visual and forms of mental disabilities. Because these schools not only receive students with hearing disabilities but also children with complex disabilities, it is important decrease the number of students per class to 6-10 students.

Many of the schools lack appropriate medical facilities and equipments to provide first aid, as the 108,900 MNT budgeted for medicine does not cover these expenses. It is however commendable that the Government has taken steps to extend the “Lunch Programme” to students in high school grades given the need for children with disabilities to be adequately fed a healthy meal in order to be able to fully participate in classes over many hours.

The human resources of professional teacher with special training to work with children with disabilities is on the decline due to the poor social welfare of teachers. There is not any regulation of teacher’s wages and salaries. Moreover, the annual expenses for the medical supplies and services of the school are budgeted with insufficient funding, and medical facilities can not cover the demand.

***Case:***

The mouth tools for speech therapy lessons are not adequate for the students’ use. Therefore, these tools are reused after sterilising...

Negative attitude in society and parents lack of motivation to develop their children discourage us more than the smell of children’s waste.

*Focus group interview “Teachers”, Sukhbaatar districts, Ulaanbaatar city*

During the focus group interviews with the students of these schools, students said that the teachers and administrative staff have good communication skill, and the kids like going to school. Parents noted that they don’t have any complaints about the communication ethics of the administrative staff and teachers, the requests they make are received and resolved positively, through the parents’ council. It was especially observed that regardless of types of disabilities the teachers who educate the children with disabilities work devoutly.

Clause 5.1.5 of Article 5 of the Law *on the Social Welfare of the Persons with Disabilities* stating, “children with disabilities, and their parents, guardians, and trustees are exempted from transportation fares once a year,” and Clause 7.4 of Article 7 of the Law stating, “domestic universities, colleges, and vocational training centres shall stipulate the

environment to enroll the citizen who are constituted in the Article 3 of this law, and in the event that he/she is admitted, the state shall be responsible for the tuition cost of him/her or a student from a family a member of which lost his/her ability to work permanently,” comply with Clause 24.2.d of Article 24 of the Convention, requiring “persons with disabilities receive the support required, within the general education system, to facilitate their effective education.”

The main intention behind Article 24 of the Convention is that education equal in quality should be provided to persons with disabilities as compared to others. Clause 7.6 of Article 7 of the *Law on the Social Welfare of the Persons with Disabilities* states, “Educational institutions that provide education for special needs shall provide education in accordance with standards based on the citizen constituted in the Article 3 of this Law.”<sup>7</sup> However, the content of the relevant provision of this law means providing persons with disabilities with education that suits with their disabilities rather than education based on their needs of education of good quality. This violates the person’s right to education in equal terms. On the other hand, children with disabilities should be encouraged to attend ordinary schools depending on the type of their respective disability, and education for children with heavy forms of disability should also be provided through special purpose schools.

Clause 24.3.a of Article 24 of the Convention stating, “States Parties shall take appropriate measures, including ... facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring,” and Clause 24.3.b stating, “ ...facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community” provide regulations on supporting and improving alternative forms of communication for persons with disabilities, especially that of persons with visual and/or hearing disabilities. However, as this issue was not legislated within the package of laws on education (*Law on Education*,

<sup>7</sup> Clause 3.1 of the Article 3, the Law on Social Welfare of the People with Disabilities: Persons with disabilities include those whose ability to participate in society on an equal terms with others are restrained permanently or for minimum 12 months due to long-term physical, mental, intellectual or sensory impairments.

*Law on Pre-school Education, Law on Higher Education, and Law on Vocational Education*), sign language and Braille script are taught only in special purpose schools. As a result, there are quite a number of persons with disabilities who are not taught to read and write and lack necessary communication skills.

There are insufficient resources including textbooks and training materials for the special needs of children with visual, hearing, or mental disabilities in special purpose schools. Moreover, these schools teach classes using the textbook from ordinary schools by lowering the grade or developing textbooks based on their own resources. It is urgent that the Government address the inaccessibility of the internal and external environment of these schools, as well address issues related to the land title of the schools, and the inappropriate use of spaces.

### **2.3. Child jockeys**

In recent years horse racing has grown from an event organized a part of the national festival “Naadam” to events held throughout the year, all over Mongolia. While horse racing plays a positive role in expanding the historical and cultural traditions and customs of Mongolia, the Commission is concerned with the high risks of accidents that result in damage to the health and life of child jockeys. The Commission, through its inquiries, has found that the rights and safety of child jockeys are not adequately safeguarded.

In its 2003, 2008, and 2010 annual reports on the status of human rights and freedoms in Mongolia, the Commission submitted recommendations to the State Great Khural on the rights of child jockeys, especially on developing legislation to press administrative and criminal charges against any person responsible for forcing a child of a junior age to ride a race-horse, forcing a child to ride a race-horse without insurance, and causing harm to the health or life of a child jockey by failing to provide protective clothing and equipment. At this time, the Government of Mongolia has not taken effective measures to implement the recommendations given by the UN Committee on the Rights of the Child in session 1501 of 29 January 2010.

In the recommendations the UN Committee on the Rights of the Child states, "...it regrets that children are increasingly victims of accidents, including traffic accidents and while riding horses and other domesticated animals, and that injuries and fatalities among child jockeys continue,"<sup>8</sup> and recommends the Government of Mongolia to make every effort to reinforce protection of the right to life of all children within the State party, to strengthen and continue efforts to raise awareness about and undertake public information campaigns in relation to accident prevention, and to develop a wider response to complement the medical orientation of the existing National Injury Programme on Injury Prevention.

Although Article 4 of the *Law on Protection of the Rights of the Child* imposes obligations on the state, an individual, a business entity, and an organization, to give priority to ensuring the interests of child first in their activities," this provision is not being effectively implemented in practice. Activities by individuals, horse trainers, insurance companies, and other stakeholders vary in ensuring the safety of child jockeys. For example, although parents, families, and horse trainers are well aware of the legal regulations including the minimum age of a child jockey, maximum number of race-horse, protective clothing and equipment, accident insurance, compensation, and bareback riding, they do not take any action to mitigate potential risks.

Therefore, it is necessary that laws are introduced to protect the rights of children and to charge persons who are responsible for causing harm to child jockeys.

As "National Programme for the elimination of the worst forms of child labour," adopted by a supplement of Resolution No 303 of the Government of Mongolia, set a goal to improve legislation to reduce child labour, and prohibit and eliminate the worst forms of child labour in compliance with children's rights based principles, an action has been taken to develop, adopt, and enforce the national standard for ensuring

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<sup>8</sup> Volume 2, Compilation of the reports of the Government of Mongolia on the implementation of the international human rights treaties, and the Recommendations given to the Government of Mongolia by the relevant treaty bodies, Ulaanbaatar, 2012. Page 355

the labour safety of the child jockeys and the protection of the rights of the child jockeys.

In the scope of this, “Requirements for the protective clothing and safety kit used in national horse racing events” (MNS 6264-2011)<sup>9</sup> were adopted by the Resolution 28 of the National Board of Standardization in 2011 and these standards have been in force since 1 February 2012. Despite the progress in regulating the use of protective clothing and ensuring child jockeys’ safety, the implementation of the standard is not effective. Moreover, no action has been taken to protect child jockeys’ rights.

In addition, these requirements are compulsory, as Clause 6.2 of the Article 6 of the Law on Standardization and Accuracy Evaluation stipulates, “National standards that are established for the objective of protecting public interests, human health, environment, and state security are obligatory to adhere to.” However, the regulations stated in Clause 27.1.3 of the law imposing a fine of 10,000-20,000MNT on a citizen who fails to adhere to the compulsory standards and 50,000-100,000MNT on a business entity, is inadequate, devaluing the life and health of child jockeys.

With the considerable change in the range of Mongolian traditional horse-races and the increase in the number of festivals, celebrations, and other horse racing events and the introduction of horse betting, horse races are held regardless of the season. It is estimated that, depending on the number of anniversary celebrations each year, there are 60-90 Naadam festivals per year. There is also still small scale horse races organised in winter, despite the prohibition of horseracing in winter.

Another important rights issue engaged by child jockeys is their remuneration. In the “*Rule of Horse Racing Competition of the National Naadam Festival*” adopted by Resolution No 148 of the Government of Mongolia in 2005, it is stipulated that a minimum of 20 percent of the remuneration of the horserace shall be awarded to the child jockey.

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<sup>9</sup> [http://estandard.gov.mn/index.php?module=menu&cmd=content&menu\\_id=114&id=330](http://estandard.gov.mn/index.php?module=menu&cmd=content&menu_id=114&id=330)

However, in practice, less than 30 percent of the several hundred horses that race in competitions are awarded remuneration, and the child jockey in most cases is left without any type of remuneration. Moreover, as this rule is legislated to regulate only horse racing held during the national naadam festival and other races to be organised by the decisions of the government, there is an urgent need for legislation to precisely regulate the labour of the child jockeys outside Naadam and other official races.

Horse racing involving young children as a jockey still poses potential danger to his/her life and health. In the countryside there are common cases among the country folk where children have acquired disabilities due to falling off animals including horses. In addition, the number of accidents involving child jockeys because of races in winter resulting in a disability increasing.

Despite the provision stating that "...a child jockey shall be older than seven years and covered by insurance" stipulated in Clause 8.2 of Article 8 of the *Law on National Naadam Festival* adopted by the State Great Khural in 2003, the result of the survey conducted by the National Authority for Children, among the child jockey who raced horses during the 2010 National Naadam Festival indicates that there were incidents of children of 5-7 years competing in horse racing. During the 2010 National Naadam Festival involving 14 180 child jockeys, 9 716 children (68.5 percent) were not covered by accident insurance.<sup>10</sup>

In 2005, the Government adopted the "Rule of horse racing of the national naadam festival" by Resolution No 119. According to clause 3.1.7 of the rule "horse trainers shall submit the birth certificate of the child jockey and his/her certificate of health insurance," however 50.8 percent of the child jockeys who were registered to participate in the local competitions during the 2010 National Naadam Festival didn't carry their birth certificate. Of 1 185 child jockeys who participated in the National Naadam Festival held in Hui doloon khudag, only 12 children were carrying their birth certificate.<sup>11</sup>

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<sup>10</sup> "Monitoring conducted in the horse race of the National Naadam festival" National Authority for Children, 2010.

<sup>11</sup> 10<sup>th</sup> Report on the human rights and freedoms in Mongolia, National Human Rights Commission of Mongolia, Ulaanbaatar., 2010.

Horse races organised in winter pose higher risks, and yet there have been approximately 30 annual horse racing events organised in all regions and provinces since the 3<sup>rd</sup> day of the first month of the lunar calendar (13 February 2013). Statistics indicate that 70 child jockeys who participated in these races were involved in an accident, 15 of which received a serious injury, while 2 children lost their lives. The most recent incident occurred when a child jockey tragically died falling off a horse and was dragged by a race horse near the starting point during the Army unit No 123's horse race organised on 18 March 2013 in Jargalant soum, Khovd province.

The “Rule of the horse race of the national Naadam festival” is adhered to during the horse races that are held at all levels or horse races held in the top or regional levels by the Government of Mongolia. As stated in Clause 2.5.1 of Article 2 of the rule, the sub-committee that is in charge of organizing horse races shall take necessary safety measures. However, during the horse races organized in winter season racing horses tend to slip over on the ice on route causing accidents that often lead to the injury or death of child jockeys. In order to address these risks it is urgent that horse races of national, regional, and local levels be strictly prohibited in winter time.

As prescribed in the Convention on the Rights of the Child, “... the child, by reason of his physical and mental immaturity, needs special safeguards and care, includes appropriate legal protection, before as well as after birth”. It is, therefore, time that legislation is enacted to guarantee and ensure the safety of the life and health of the child.

Finally, legislation must be implemented by raising public awareness, and enforcing laws, in order to effectively protect the rights of the child jockeys, who are currently being violated seriously.

## CHAPTER THREE

### SITUATION OF THE RIGHTS OF LGBT PERSONS IN MONGOLIA

**“No person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion or education. Everyone shall have the right to act as a legal person.”**

(Clause 14.2 of the Article 14 of the Constitution of Mongolia)

**“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**

(Clause 2.2 of the Article 2 of the International Covenant on  
Economic, Social and Cultural Rights)

**“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”**

(Clause 2.1 of the Article 2 of the International Covenant on  
Civil and Political Rights)

**“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**

(Article 2 of the International Covenant on Civil  
and Political Rights)

Persons of sexual minorities such as lesbian women<sup>12</sup>, gay men<sup>13</sup>, bisexual persons<sup>14</sup>, transgender persons<sup>15</sup>, and intersex<sup>16</sup> persons ('LGBT' persons)<sup>17</sup> live everywhere around the world. While one survey indicates that LGBT persons make up approximately 10 percent of the total population of a country, this statistics may vary.<sup>18</sup>

Scholars agree that sexual orientation<sup>19</sup> and gender identity<sup>20</sup> are natural orientations and are unchangeable in a person. Consequently, sexual orientation was removed from the list of psychological illness by the Psychologists Association of the United States of America in 1973<sup>21</sup> and by the World Health Organization in 1990.<sup>22</sup> Thus, it was confirmed and internationally recognized that sexual orientation is neither a psychological illness nor an abnormal phenomenon.

In a modern human rights respecting society the rights and freedoms of LGBT persons are protected by Government for example through their political participation, legalizing marriage between couples of the same sexual orientation, allowing medical sexual shifts of transgender persons, and promoting health issues of LGBT persons. Ensuring these rights are upheld is currently the central focus of both the UN human rights mechanisms at the regional and country level.<sup>23</sup>

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<sup>12</sup> Sexual and romantic attraction and relations between females.

<sup>13</sup> Sexual and romantic attraction and relations between females.

<sup>14</sup> Romantic attraction, sexual attraction or sexual behavior toward males and females.

<sup>15</sup> A person who deeply feels and identifies his/her sex as the opposite from his/her assigned sex and lives by that identity. As for sexual orientation, transgender persons may identify as straight, lesbian, or bisexual.

<sup>16</sup> Persons whose sex can not be distinguished for having the chromosomes, gonads, and/or genitals of both male and female sexes. Intersex refers to genital ambiguity, and combinations of chromosomal genotype and sexual phenotype other than XY-male and XX-female from birth. Since ancient time Mongolians identifies intersex by "manin," but in contemporary society it has become a term mistakenly used to refer to a person with same-sex sexual orientation. Thus, internationally recognized term "intersex" should be used.

<sup>17</sup> Initialism is the internationally recognized term that collectively refers to the lesbian, gay, bisexual, and transgender people. *This expresses sexual relations, sexual behavior, or characteristics of homosexuals.* NHRCM, "LGBT Centre" NGO, "Implementation of the rights of Sexual Minority" Survey. 2012.

<sup>18</sup> <http://www.gallup.com/poll/6961/what-percentage-population-gay.aspx>

<sup>19</sup> Sexual orientation is understood to refer to each person's capacity for profound emotional, affection and sexual attraction to, and intimacy and sexual relations with individuals of a different gender or the same gender or more than one gender.

<sup>20</sup> Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

<sup>21</sup> <https://confluence.cornell.edu/display/WWC/The+Evolution+of+the+Medical+Definition+of+Homosexuality>

<sup>22</sup> [http://psychology.ucdavis.edu/rainbow/html/facts\\_mental\\_health.html](http://psychology.ucdavis.edu/rainbow/html/facts_mental_health.html)

<sup>23</sup> <http://www.ighrc.org/cgi-bin/iowa/content/globalissues/index.html>

There are a number of nongovernment organizations that carry out activities on the rights of the LGBT persons in many countries. Moreover, having expanded their activities, these organizations also advocate for the rights of LGBT persons at the international level on and involved at the level of UN specialized agencies.

*“We see a pattern of violence and discrimination directed at people just because they are gay, lesbian, bisexual or transgender. There is widespread bias at jobs, schools and hospitals. And appalling violent attacks, including sexual assault. People have been imprisoned, tortured, even killed. This is a monumental tragedy for those affected-and a stain on our collective conscience. It is also a violation of international law... To those who are lesbian, gay, bisexual or transgender, let me say: You are not alone. Your struggle for an end to violence and discrimination is a shared struggle. Any attack on you is an attack on the universal values the United Nations and I have sworn to defend and uphold. Today, I stand with you ... and I call upon all countries and people to stand with you, too.”*

*Ban Ki-Moon, United Nations Secretary-General  
Statement to Human Rights Council, 7 March 2012*

In Mongolia, there are a few nongovernment organizations that work solely on the rights of LGBT persons such as the “LGBT Centre,” and the “Youth Health Centre,” which works on the prevention of AIDS/HIV/STIs and health, the “Together Centre,” and the “Support Centre.” In addition, there also other human rights organizations such as the “MONFEMNET” National Network, “All for Education” Mongolian National Civil Society Coalition, “Open Society Forum,” “Human Rights and Development Centre,” “National Centre against Violence,” “Amnesty International Mongolia,” and “Globe International” that are working on the rights of the LGBT persons.

The current situation of LGBT people in Mongolia requires the state policy to implement the rights of the LGBT persons, by changing stereotypes held by Mongolians towards LGBT people due to strong traditions, customs, and social psychology that cause people to consciously or unconsciously discriminate against LGBT people.

Due to the repeated requests and recommendations of UN agencies and international and domestic nongovernment organizations, the Commission, with financial support from the UNDP Project “Strengthening national human rights oversight capacity in Mongolia,” conducted the survey the “Implementation of the rights of sexual minorities” in cooperation with the LGBT Centre in 2012. In recent years the Commission, on protection and promotion of the rights and freedoms of these persons, has carried out a number of activities including assisting with the registration of the “LGBT Centre” with the National Registration Office, documenting violations of the rights of LGBT persons, and carrying out promotional and educational activities with the support of Asia Pacific Forum of national human rights institutions (‘APF’) with police and officers of law enforcement agencies on the rights of LGBT persons.

By resolution 17/19 of 14 July 2011, the UN Human Rights Council ordered the High Commissioner for Human Rights to document the laws and practices leading to discrimination in member states. Research indicates that international human rights law is effective Just a proposal: stopping the practice of violence based on sexual orientation and gender identity, and assists with reporting such incidents. In this regard, in December 2011, Ms. Navi Pillay, High Commissioner for Human Rights submitted her report on discrimination and violations of human rights of LGBT persons for the first time in history of the UN.

In Mongolia, “All for Education” Mongolian National Civil Society Coalition and the LGBT Centre cooperatively conducted the case studies “How the rights of children and youth of sexual minorities to education are ensured” in 2010. Additionally, the John Hopkins University, jointly with the Joint United Nations Programme on HIV/AIDS (UNAIDS), conducted a survey on the vulnerability of males who

have sexual contact with males, to HIV, access of medical care, and other related human rights issues.

The Commission also carried out a survey aimed at determining the causes and factors of discrimination against LGBT persons and current public awareness and stereotypes on LGBT persons.

The survey involved the total 138 persons from Ulaanbaatar, Darkhan soum of Darkhan-Uul province, and Bayan-Undur soum of Orkhon province, including 78 civil servants (criminal case registrars, investigators, teachers, physicians, and social workers), and 60 LGBT persons. 76.7 percent of LGBT persons were from Ulaanbaatar, 20 percent were from the countryside, and 3.4 percent were living abroad. Reporting sexual orientation and gender identities of persons, males made up 50 percent, females 31.7 percent, trans females 11.7 percent, and trans males 6.7 percent. 28.3 percent of LGBT persons were between 18-23 years, 26.7 percent of persons were between 24-29 years of age, 26.7 percent LGBT persons were between 30-35 years of age, and 18.3 percent of LGBT persons were above the age of 36. As for sexual orientation 35 percent of them indentifies as gays (including transgays of 1.7 percent), 25 percent as lesbians (including trans lesbians of 3.3 percent), 35 percent as bisexual, and 5 percent as heterosexual. In terms of higher education, 65 percent of LGBT persons had completed higher education, 26.7 percent of LGBT persons only had completed their secondary education, and only 5 percent of LGBT persons have only completed primary education and vocational education.

### **3.1. The right to be free from discrimination**

*Everyone is entitled to enjoy all human rights without discrimination on the basis of their sexual orientation or gender identity.*<sup>24</sup>

In March 2011 the UN Human Rights Committee recommended the Government of Mongolia, “Take urgent steps to address the issue of discrimination against LGBT persons.” However, the Government has not undertaken sufficient action to implement this recommendation

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<sup>24</sup> The Yogyakarta principles 2, Ulaanbaatar, 2012

and there remains significant social, family and community resistance to recognizing the rights and identity of LGBT persons. As such LGBT persons are still subject to discrimination in Mongolia.

**Case:**

One of the founders of the NGO “Fate”, which was established in 1999 to protect the rights of homosexual males, was physically attacked by his brother after he provided an interview to the newspaper “Seruuleg”, revealing violations of the rights of gay persons. In response his brother broke his leg saying: “Get this! You deserve it for being a gay.”

In September 1994, O.G was beaten up by her brother simply for being a lesbian. She then lost contact with her family due to her sexual orientation. After a while she established a domestic partnership with a man in order to have a child, without telling him of her sexual orientation. After the relationship ended, in 2005, when he discovered that O.G. was a lesbian, he threatened to kill her.

*Private archive, Documentation by MILK Centre, 2006*

In response to the survey question “How does current society recognize LGBT persons?” 95 percent of the 60 LGBT persons involved in the survey answered, “It does not recognize LGBT persons at all.” When this question was asked of public servants, 45 percent answered “I don’t know,” and 36.7 percent answered “No,” and 18.3 percent answered “Yes.”

Society’s disapproval and failure to accept LGBT people usually manifests itself through forms of harassment. During the focus group interviews, harassment including humiliation, intolerance, verbal insults, and physical offences were mentioned.

**Case:**

“Because I grew up playing with girls, children from our neighborhood ridiculed me in many ways. While going home, I always would fear being beaten by someone.”

*Focus group interview with transgender male  
“Implementation of the rights of sexual minority” Survey, 2012*

**Case:**

“Being reminded of the age of marriage feels terrible because many people say, “You are now of an age to get married. Why don’t you get married? You should find husband”

*Focus group interview with transgender female  
“Implementation of the rights of sexual minority” Survey, 2012*

Given the fact that 73.3 percent of persons involved in the survey said that they have once considered committing suicide due to society’s intolerance and failure to understand them, it is unsurprising that many LGBT person leave Mongolia to escape the harassment and other forms of discrimination they suffer.

**Case:**

“If Mongolian society were open and liberal, no one would abandon his/her country for another one. However, the conditions are so difficult. When it seems like there is no sign of justice because of one’s LGBT status, not only emigration but even asylum is one’s only choice.”

*Focus group interview with a gay man  
“Implementation of the rights of sexual minority” survey, 2012*

71.7 percent of the 60 LGBT persons surveyed, said that they hide their status as a sexual minority from their families, classmates, and colleagues. The main reason for hiding their sexual orientation is due to their fear of being ridiculed because of the misperceptions of LGBT persons, causing damage to their families’ reputation, losing their position in society, as well as fear for their own safety as the legal environment cannot protect them.

In response to the question “how do you feel when you communicate with a LGBT person?” 55 percent of 78 public servants involved in the survey answered “Normal,” 35 percent replied “generally uncomfortable,” 8.3 percent answered “very uncomfortable,” and 1.7 percent answered “generally comfortable.”

As seen from the survey results, LGBT persons live with stress, violence, and oppression as they suffer discrimination from the public and are rejected by their families who do not accept their status.

In response to the question “Have you been discrimination against by your family,” 86.7 percent of the participants answered that they haven’t told their family about their status, and they are afraid of telling them.

**Case:**

“Even though I hate even talking to my family, who don’t understand that I was naturally born with this orientation, due to my financial dependence on them and my own inability to live independently, I have no choice but to be among the people who hate me and are icy toward me when I come home every day. Sometimes I even wonder whether they would cry over my death if I would commit suicide, of whether others would think they had killed me. Whenever there is a small argument, they shout at me, “a maniac” and push me to tell them the name of the person who persuaded me into this path. However I tell them this is my natural trait and I have been like this since my first memory. They don’t understand me. Nothing is more heart breaking than being told by your parents they regret giving birth to you. It was many times that I have heard them saying that it is better for me to die than live in such shame. There were a number of times I felt so terrible like committing suicide.”

*Focus group interview “Implementation of the rights of sexual minority”  
Survey, 2012*

**Case:**

B.P. is a gay man. In April 2005 his uncle, who work in police, called him and beat him up with a baton, when he heard that his nephew lives with a foreign man in Beijing.

As a result, his torso, leg, and buttock sustained serious injuries. The following day notable to turn his uncle into the police, he departed Mongolia.

*Focus group interview “Implementation of the rights of sexual minority”  
Survey, 2012*

Insufficient public awareness and education as well as limited information resources on the LGBT persons, is one of the major reasons why LGBT persons are discriminated against.

In response to the question, “Does the public have sufficient knowledge and information on LGBT persons?” 78.4 percent of the public servants involved in the survey answered, “little bit,” 16.6 percent answered “not at all,” and 5 percent “sufficient.”

Finally, when asked “Do you think LGBT persons choose their sexual orientation on their own wish?” 46.7 percent answered “No” 45 percent answered “I don’t know” and 8.3 percent answered “Yes.”

These results highlight that negative attitudes and stereotypes are dominant in society because of inadequate knowledge and public awareness of LGBT persons and their rights. Discrimination leads to violations of the LGBT persons’ rights to liberty and security, their right to marry, to an education, to safe employment, to health services and to full participation in society.

### **3.2. The right to found a family**

Everyone has the right to found a family, regardless of his or her sexual orientation or gender identity. Families exist in diverse forms. No family should be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members.<sup>25</sup>

Article 2 of the *Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages*, which Mongolia acceded to in 1991 states, “Marriage shall be entered into only with the free and full consent of the intending spouses.<sup>26</sup>” However, the team that conducted the survey “Implementation of the rights of Sexual Minority,” found that this provision has been mistranslated in Mongolian as, “*Marriage shall be entered into only with the free and full consent of the*

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<sup>25</sup> Yogyakarta principle 24., Yogyakarta principles. Ulaanbaatar 2012.

<sup>26</sup> “LGBT Centre” NGO, “Implementation of the rights of Sexual Minority” Survey., 2012

*male and female couple*”, wrongfully including terms ‘male and female’ and which are not stipulated in the original text.

“Intending spouses” means “persons who have common family life and want to marry.”

Article 16 of the Constitution of Mongolia states that, “Marriage shall be based on the equality and mutual consent of the *male and female* who have reached the age defined by law. The State shall protect the interests of the family, motherhood and the child”. LGBT persons in Mongolia have criticized article 16 as discriminating against LGBT persons by legally dividing people residing in Mongolian into two categories based on their sexual orientation, discriminating against persons with same sexual orientation and their *de facto*<sup>27</sup> family. LGBT rights groups have repeatedly put forward proposals to the Government to amend this provision in compliance with the *Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages*.

***Case:***

B.D. was a foreign man who lived in Mongolia. His same sex marriage with a foreign man was recognized, and on the basis of this his spouse’s visa, he was granted residence permission in Mongolia. In a different case, the Government refused to accept the same sex marriage of R.G, a foreign woman, to a Mongolian woman, and would only allow her permission to reside in Mongolia on the basis on her labour agreement, rather than her marriage. This was an incident of discrimination, treating different two marriages of the equal status.

*Private note by N.A.*

Mongolia is currently a country that does not accept same sex marriage. Countries such as Argentina, Belgium, Canada, Ireland, Netherland, Norway, Portugal, South Africa, Spain, and Sweden has accepted same sex marriage at the national level.

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<sup>27</sup> De Facto - a Latin expression that means “concerning fact. H. Victor Conde A Handbook of *International Human Rights Terminology*, 2002.

### 3.3. The Rights of the children of LGBT persons

Even though it is stipulated in Clause 4.1 of article 4 of the *Law of Mongolia on Protection of the Rights of the Child*, that the Government must “ensure equality without discrimination against the child, his/her parents, guardian, and trustee on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion, education, or health,” in reality the children of LGBT persons are subjected to discrimination along with their parents.

***Case:***

O.G is a 38 year-old lesbian. She and her partner gave birth to and brought up two children. Her eldest 17 year-old daughter experiences discrimination at school because she has two mothers. Her classmates constantly ask nasty questions such as “Your mother is a homosexual, isn’t she? Who is the woman who always walks with your mother?” causing embarrassment. O.G said, “I am concerned about what could happen to my daughter because of me. We are really worried that the child whom my partner gave birth to will also be subjected to discrimination at school.”

*Documentation by “LGBT Centre” February 2011*

This case reveals that the rights of the children of LGBT persons, like their parents, are often violated.

The Committee on the Rights of the Child noted that it is essential to pay special attention to children who are not sure whether their sexual orientation is lesbian/gay or not. Due to the unavailability of information for these children, many are vulnerable to experience self-blame for their difference from others, depression, loss of interest in learning and social isolation. It is therefore important to protect these children and provide them with information and reproduction and sexual health service so that they can be informed from an early age about their own sexual orientation.

### 3.4. The right to labour

*Everyone has the right to decent and productive work, to just and favorable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity.*<sup>28</sup>

In Mongolia, the right to employment is not ensured for LGBT persons. LGBT persons are often not hired if they reveal they are a LGBT person, so many are forced to hide their LGBT status. In cases where their LGBT status is revealed, they are subjected to many forms of discrimination.

When asked, “Have you ever been subjected to discrimination caused by your sexual orientation?” 81.7 percent of the LGBT persons involved in the survey answered, “I hide my real identity,” 11.7 percent answered, “Yes,” 3.3 percent answered, “I have never worked,” and only 3.3 percent answered, “I have never been discriminated against at work place based on my LGBT status.”

When asked, “Do you think Mongolia provides an environment conducive to working and living safely?” 78.3 percent of the public servants involved in the survey answered, “No,” 15 percent answered, “Yes” and 5 percent answered, “I don’t know,” while 1.7 percent didn’t answer at all.

The results of the survey indicate that it is highly possible for a LGBT person to be subjected to discrimination unless he/she hides their real status at work. This was confirmed by the focus group interview below.

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<sup>28</sup> Yogyakarta principle 12., Yogyakarta principles. Ulaanbaatar 2012.

**Case:**

“Because Mongolia is small country, there were many incidents in which if I revealed my LGBT status to one employer, and other potential employers were told and refused to employ me. Although I graduated a specialized training, employer would hire someone else with less qualification.

“There are many problems in the work place. They insult you by saying, “Don’t you have a girlfriend? Your girlfriend must be a man. Look at how you are walking. Be like a man. Are you are a sibling G? etc.”

*Focus group interview with a gay man “LGBT Centre” NGO, the survey “Implementation of the rights of Sexual Minority” 2012.*

When asked, “How do the people of your close relationship and acquaintance treat LGBT persons?” 51.7 percent of the public servants involved in the survey answered, “generally negatively,” 13.3 percent answered, “very negatively,” 33.3 percent answered, “normally,” and 1.7 percent answered, “very well.” This indicates 65 percent of the public servants have close relationships and acquaintances with people who hold negative views towards LGBT persons.

### **3.5. The right to access health care and services**

***Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.<sup>29</sup>***

80 percent of 116 HIV-positive persons<sup>30</sup> living in Mongolia are males or men who have sex with men.

<sup>29</sup> Yogyakarta principle 17., Yogyakarta principles. Ulaanbaatar 2012

<sup>30</sup> Statistics from National Centre for Contagious Diseases. October 2012

**Case:**

When I requested to have iliac surgery and said I was HIV-positive at the State Central Clinical Hospital, they said it was impossible to give me surgery at the clinic and they refused. A surgeon from that hospital conducted surgery for me at the National Centre for Contagious Diseases. It was really difficult for me to have surgery without narcosis in an unequipped room of the National Centre for Contagious Diseases. Despite the refusal of the State Central Clinical Hospital to carry out my surgery at its building, the surgeon conducted the operation for me recognizing his duty to me as a physician.

*Interview with a HIV-positive gay man, 2012*

According to the survey results, there have been a number of incidents where districts, khoroo, and private sector clinics have refused to provide medical care to persons with HIV. All health care and other issues for HIV-positive persons are handled by the National Centre for Contagious Diseases. There were also incidents in which clinics and hospitals including Songdo, the State Central Clinical Hospital, and the State Central Third Hospital refused to provide HIV-positive persons with medical services including medical examinations and medical treatment, and surgery.

**Case:**

When I requested to have iliac surgery and said I was HIV-positive at the State Central Clinical Hospital, they said it was impossible to give me surgery at the clinic and they refused. A surgeon from that hospital conducted surgery for me at the National Centre for Contagious Diseases. It was really difficult for me to have surgery without narcosis in an unequipped room of the National Centre for Contagious Diseases. Despite the refusal of the State Central Clinical Hospital to carry out my surgery at its building, the surgeon conducted the operation for me recognizing his duty to me as a physician.

*Interview with a HIV-positive gay man, 2012*

**Case:**

“When talking about health care, most people think about diseases. But the issues of mental health and psychological health are left behind”.

“Transgender persons don’t have any opportunity to have access to health care and their right to privacy. There are no physicians with knowledge about hormone replacement therapy, there are various potential troubles such as cancer, bone disease to transmen and coronary disease and bone disease to trans women in the future. If you decide to find and use hormones in line with international standards, you can’t afford the cost.”

*Focus group interview “LGBT Centre” NGO, the survey  
“Implementation of the rights of Sexual Minority”, 2012*

As gay men have anal sex, they have a higher risk of being infected with HIV because the skin of anus is very thin and fragile. Thus, sexual relations between men without condoms is very risky for them.

Lesbian sexual behavior doesn’t carry a significant risk of transmitting HIV sexually transmitted infection. Many lesbian women do not visit gynecologists and undertake cancer prevention testing because of their negative treatment by physicians and medical workers.<sup>31</sup>

There is international research<sup>32</sup>; indicating there are more cases of malignant and benign tumours of breast, uterus, and ovary among lesbian and bisexual women than heterosexual<sup>33</sup> women. This also means this could be same case for the Mongolia lesbian and bisexual women to have these types of malignant and benign tumour. There has not been any survey conducted on this issue in Mongolia.

<sup>31</sup> “Implementation of the rights of Sexual Minority” Survey by “LGBT Centre” NGO and NHRM., 2012

<sup>32</sup> Bowen, D. J., Boehmer, U., & Russo, M. (2003) “Cancer and sexual minority women” in I. H. Meyer and M. E. Northridge (Eds.), *The Health of Sexual Minorities*. Washington, DC; APA Lesbian and bisexual women’s health fact sheet <http://womenshealth.gov/publications/our-publications/fact-sheet/lesbian-bisexual-health.cfm>; Rankow EJ, Tessaro I. (1998) “Cervical cancer risk and Papanicolaou screening in a sample of lesbian and bisexual women”, *Journal of Family Practice*, vol.47, iss.2, pp.139-143; Stevens PE, Hall JM (1988) “Stigma, health beliefs and experiences with health care in lesbian women”, *Journal of Nursing School*, vol.20, iss.2, pp.69-73; Ferris DG, Batish S, Wright TC, Cushing C, Scott EH (1996) “A neglected lesbian health concern: cervical neoplasia”, *Journal of Family Practice*, vol.43, iss.6, pp.581-584; Carroll NM (1999) “Optimal gynecologic and obstetric care for lesbians”, *Obstetrical Gynecology*, vol.93, iss.4, pp.611-613.

<sup>33</sup> “Heterosexual” – a person who is romantically and sexually attracted to a person of opposite sex.

When asked, “Do you encounter challenges accessing health service when you see physicians and medics?” 70 percent of LGBT persons involved in the survey answered, “I don’t tell them my LGBT status to avoid troubles” 10 percent answered “it is very challenging” and 20 percent replied that there is “no problem.”

In conclusion, the right to health and access to health care is limited for LGBT people in Mongolia.

### 3.6. The right to education

*Everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity.*<sup>34</sup>

Since 2002, the subject “Health” has been in the curriculum of the 8<sup>th</sup> and 9<sup>th</sup> grades in general education schools. While the curriculum includes a chapter on “Sexual education,” it discusses sexual orientation solely in connection with sexual relations. Gender identity is not included at all.

When survey participants were asked if they were taught about sexual orientation and gender identity, 10 percent answered, “Yes,” 1.7 percent answered, “only information that indicates same sex orientation is a mental illness” while others answered “a little bit” or “No.”

**Case:**

“It was common for school children to be called, “Hey, girl. Hey gay” It is nothing unless they caught me and punched at my stomach. When a teacher says, “So girly” my classmates laughed. I wondered whether the teacher knew she caused embarrassment to me and caused an uncomfortable situation for me in class. I missed classes because of the insults by other. There were many cases of other gay boys who left school.”

*Focus group interview “LGBT Centre” NGO, the survey “Implementation of the rights of Sexual Minority”, 2012*

It has been confirmed through various scientific research that natural factors play a dominant role in sexual orientation and gender

<sup>34</sup> Yogyakarta principle 16., Yogyakarta principles. Ulaanbaatar 2012.

identity<sup>35</sup>. However there is a lack of objective and useful information availability for transgender children and children of same sex orientation about their natural orientation, and they therefore not able to be provided with an education that fully suits their biological features.<sup>36</sup>

When participants were asked whether they were subjected to discrimination based on their sexual orientation and gender identity in the school or educational environment, 25 percent of persons surveyed answered, “Yes” and 75 percent of persons answered “No”. In response to a question about whether they have ever been assaulted at school or in an educational environment because of their LGBT status, 6.7 percent of persons answered that they have been physically assaulted.

**Case:**

H. is a 16 year old transwoman. She played only with girls since her childhood. Even after she entered school, she was always ridiculed as “a girl” and “a woman,” and was beaten by her classmates and children of her neighborhood for her trans status when she was in the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> grades. She was forced to move to another school, and to different neighborhood. She was beaten again in 7<sup>th</sup> grade and left school. She never completed general education.

*Documentation by “LGBT Centre” March 2010*

<sup>35</sup> LeVay, Simon (1991) “A difference in hypothalamic structure between homosexual and heterosexual men”, *Science*, vol.253, iss.5023, pp.1034-1037; LeVay, Simon (1993) *The Sexual Brain*, Cambridge: MIT Press; LeVay, Simon (1996) *Queer Science: The Use and Abuse of Research into Homosexuality*. Cambridge: MIT Press; LeVay, Simon (2010) *Gay, Straight and Reason Why: The Science of Sexual Orientation*. New York: Oxford University Press; Diamant, Louis and Richard D. McNulty (eds.) (1995) *The Psychology of Sexual Orientation, Behavior and Identity: A Handbook*, Greenwood publishing group; Ellis, Lee and M. Ashley Ames (1987) “Neurohormonal functioning and sexual orientation: A theory of homosexuality–heterosexuality”, *Psychological Bulletin*, vol.101(2), pp.233-258; Weinberg, Thomas S. (1985) “Biology, ideology, and the reification of developmental stages in the study of homosexual identities”, *Journal of Homosexuality*, vol.10, iss.3-4, pp.77-84; Sommer, Volker and Vasey, Paul L. (eds.) *Homosexual Behaviour in Animals: An Evolutionary Perspective*, New York: Cambridge University Press; Bancroft, John (1994) “Homosexual orientation: The search for a biological basis”, *The British Journal of Psychiatry*, vol.164, pp. 437-440; Corsello, S.M., Donna V.Di, Senes P., Luotto V., Ricciato, M.P., Paragliola, R.M., Pontecorvy A (2006) “Biological aspects of gender disorders”, *Minerva Endocrinologica*, vol.36, pp.325-339; Segal, Nancy L. (2006) “Two Monozygotic Twin Pairs Discordant for Female-to-Male Transsexualism, Archives of Sexual Behaviour, vol.26, iss.3, pp.346-357; Kruijver, Frank P.M., Zhou, Jiang-Ning, Pool, Chris W., Hofman, Michael A., Gooren, Louis J. and Dick F. Swaab (2000) “Male-to-female transsexuals have female neuron numbers in a limbic nucleus”, *The Journal of Clinical Endocrinology and metabolism*, vol.85, iss.5, pp.2034-2041; Garcia-Falgueras, Alicia and Frank F. Swaab (2008) “A sex difference in hypothalamic uncinate nucleus: relationship to gender identity”, *Brain*, vol.131, iss.12, pp.3132-3146; Kockott, G. and E-M. Farhner (1988) “Male-to-female and female-to-male transsexuals: a comparison”, *Archives of sexual behavior*, vol.17, iss.6, pp.539-546; Lentini, E., Kasahara, M., Arver, S., and I. Savic (2012) “Sex differences in human brain and the impact of sex chromosomes and sex hormones”, *Cerebral cortex*, vol.10; Heath, Rachel (2006) *The Praeger Handbook on Transsexuality: Changing Gender to Match Mindset*, Praeger publishers.

<sup>36</sup> “Implementation of the rights of Sexual Minority” Survey by “LGBT Centre” NGO and NHRM., 2012

### 3.7. Security of the person

Everyone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group.<sup>37</sup>

The survey conducted revealed high rates of incidences in which LGBT persons are hated, subjected to criminal behaviour and/or become a victim of a crime because of their sexual orientation and gender identity.

In November 2010, the Universal Periodic Review (‘UPR’) of the UN Human Rights Council recommended that Mongolia amend the Criminal Code provision on hate crimes, creating an independent provision to ensure access for the victims of hate crimes to redress, and to combat these crimes.

#### *Case:*

On 25 February 2012, a trans man was severely assaulted by “E.G” for being trans, receiving a minor injury causing a splinter in an eye-socket. The Prosecutor’s Office of Chingeltei district specified this case as a Clause 99.1 of Article 99 of the Criminal Code case, and E.G. was convicted guilty of the minor crime by the Court on 5 September 2012. Nevertheless, 6 months later he was let out without serving his sentence, as the case was minor crime. While the victim submitted that this was a hate crime and reminded the prosecutor and judge that this type of crime should be put to an end given Mongolia’s duty under international treaties, his submissions were ignored, and the offender evaded responsibility.

*Documentation by “LGBT Centre” 2012*

In 2009 trans girls who go by the names “E”, “Kh”, and “B” were kidnapped by the youth of Dayar Mongol Movement and brought in Dalandavkhar graveyard, where they were severely physically and sexually assaulted. They were tortured, forced to suck sexual organs of the youth and one another’s, raped by cramming a bag of rocks into the sexual organ of one of the girls. Because of their interview in the documentary “Lies of freedom” by “LGBT Centre” they became subject to threats of death, and eventually “E” and “Kh” fled Mongolia with the assistance of the “LGBT Centre”.

<sup>37</sup> Yogyakarta principle 5., Yogyakarta principles. Ulaanbaatar 2012.

They didn't notify the police of this serious offence because they were in shock fearing further potential attacks and humiliation for their trans status. In Addition, as "Kh" was a member of Dayar Mongol movement, she knew members of this movement were also in the rank of police officers. Therefore, they didn't seek police assistance. Now these girls live abroad with refugee status.

*Documentation by "LGBT Centre" 2012*

In autumn 2001, the body of a lesbian woman called "B" was found near the river Tuul with various knife and crushing wounds. "B" was banished from her family when she was a child for being a lesbian and resorted to prostitution to make a living. Her murderer hasn't been found.

*Documentation by "LGBT Centre" 2012*

"A", a gay man was constantly beaten by his boyfriend's family. The last time this happened he was left with broken teeth and ribs and a knife wound. He didn't go to the police because he knows some of family members of his boyfriend work in police, and various acquaintances in the rank of law enforcement officers. Now "B" lives in the USA with refugee status.

*Documentation by "LGBT Centre" 2012*

There are various agreed principles and norms on hate crimes recognised internationally, and hate crimes are treated as serious crimes in various countries.<sup>38</sup>From the 1990s the USA, Canada, and most of European Union countries have specified hate crimes and condemned it with a criminal charge.

This type of crime is specific as it is committed against a group of people with the same features. It can cause long time impacts to a particular group. These crimes target people based on an unchangeable feature that they have from birth.<sup>39</sup>

As documented by "LGBT Centre," there are various examples of incidents of domestic violence between same sex couples. However due the absence of LGBT-friendly legislation and social prejudices, and

<sup>38</sup> Punishment For Hate Crimes, <http://www.crimemuseum.org/library/hateCrime/punishmentForHateCrimes.html>What is a hate crime? <http://www.cbc.ca/news/canada/story/2011/06/15/f-hate-crimes.html>, Tougher penalty for hate crimes <http://www.guardian.co.uk/politics/2003/oct/31/ukcrime.gayrights>

<sup>39</sup> "Implementation of the rights of Sexual Minority" Survey by "LGBT Centre" NGO and NHRCM., 2012

the inferior knowledge of law enforcement officers, they are unable to secure legal protection.

**Case:**

A.B, a gay man, has been living with his partner for six years. There has always been alcoholism and violence in their relationship, resulting in serious health problems on both sides. The police refused to intervene seeing the issue as merely fighting between two men. A.B.'s boyfriend says, "I was just an ordinary man. Then I walked this path as I fell in love with A.B. But A.B. doesn't understand me well."

*Documentation by "LGBT Centre" November 2012*

In response to the question "Has the police ever ignored you when you experienced criminal offence?" 26.7 percent answered, "I think it is necessary to reveal my LGBT status" 11.7 percent answered "I have," 46.7 percent answered "I think they would ignore me if I reveal my true status," and 15 percent answered "I have never been such a situation."

**Case:**

"While I was going home, the brother of my boyfriend head butted me and ran away. I got into my friend's apartment, where I also live, and angrily said, "Your brother butted me and broke my nasal bone." Then his mother called the police. The cops caught me, who actually was the victim, insulted me shouting, "You, gay, just shut up and behave" and hit me."

*Focus group interview with a gay man "LGBT Centre" NGO, the survey  
"Implementation of the rights of Sexual Minority".2012*

"In 2009, I put on female clothes and went out with my friends. Then people would throw rock and dirt at us, even mud mixed with their urine. Just thinking "it's alright," I would take a shower and go out. But when we were just talking outside, a group of youth came and beat us up. We called the police and went to the police station with them as well. Then the policemen shouted at us angrily, "Why did you get dressed in female clothes? It's your fault. Don't waste our time" and threw us out. But I am a trans woman. What shall I do?"

*Focus group interview "LGBT Centre" NGO, the survey  
"Implementation of the rights of Sexual Minority",2012*

In every sector of society LGBT persons are subjected to discrimination because their original nature is not accepted in public, and their person, dignity, and privacy are under constant assault, humiliation, and even under domestic violence.

Due to the lack of information or knowledge and negative public perceptions on sexual orientation and gender identity, their rights to a healthy and safe environment, to labour, to education, to health, and to participation in and benefit from social and cultural life are still not guaranteed.

In the current situation in which family members and relatives of LGBT persons, the closest persons to them, are often intolerant of their sexual orientation and gender identity, there is great potential to cause real damage and depression to them.

## CHAPTER FOUR

### IMPLEMENTATION OF RECOMMENDATIONS OF THE UNITED NATIONS TREATY BODIES TO THE GOVERNMENT OF MONGOLIA

Through the process of reviewing the Government's reports on human rights and freedoms to the United Nations ('UN') Treaty Bodies and the Human Rights Council ('HRC'), we are able to monitor the implementation of human rights and freedoms, which State Parties have obligations and commitments to implement.

All States parties, which have acceded to the human rights conventions passed by the UN General Assembly, are obliged to submit regular reports to the human rights treaty bodies on how the rights are being implemented. There are ten UN human rights treaty bodies which issue general comments and recommendations after reviewing the reports of the States Parties.

States parties are obliged to incorporate the comments and recommendations of the human rights treaty bodies into their national laws, policies and programmes, and to include changes and progress made with regards to human rights implementation in their national reports'. Some treaty bodies have a mandate to receive individual complaints regarding violations of human rights and to submit their conclusions to the State party after consideration of the complaint.

This 12<sup>th</sup> Report includes information on the implementation of the recommendations provided by the UN Committee against Torture in 2011, and the UN Human Rights Committee in 2010, after reviewing the reports of the Mongolian Government, based on resources and information received from relevant Government bodies. The Committee against Torture monitors the implementation of the Convention against Torture, and Other Cruel, Inhuman, or Degrading Treatment ('CAT'). Mongolia submitted its first report to the Committee in 2009, and received 28 recommendations, adopted in the 976<sup>th</sup> session after reviewing it in

the 963<sup>rd</sup>, 964<sup>th</sup> sessions in November 2010.

The Human Rights Committee monitors the implementation of the International Covenant on Civil and Political Rights ('ICCPR') and its optional protocols. Mongolia has submitted its 5<sup>th</sup> report to the Committee in 2008 and received 24 recommendations adopted in its 2797<sup>th</sup> session in 2011.

The Human Rights Council, one of the charter-based bodies of the UN, is responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations to State parties, who have acceding to human rights treaties and conventions. The Council reviews the human rights situation of its 193 members every four and half years and puts forward recommendations to the State under review through its Universal Periodic Review ('UPR').

Mongolia was reviewed by the Working Group of the Universal Periodic Review, which consists of 47 members of the Human Rights Council, in its session on 2 November 2010. As a result of the review, 129 recommendations were adopted in March 2011. The Government of Mongolia accepted 126 recommendations out of 129 and expressed its commitment to see their implementation.

However, Mongolia has not accepted three recommendations, including the recommendations to become a party to the *1951 Convention relating to the Status of Refugees and its 1967 Protocol* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and the recommendation to “mandate the Constitutional Court to act upon violations of individual rights and freedoms guaranteed under the Constitution.”

The main goal of the UN Treaty Committees and the Universal Periodic Review of the Human Rights Council is to assess the human rights situation of a country, address the issues, provide technical assistance when necessary, strengthen the capacity of a country to

improve its human rights situation, and to bring opportunities to the States to learn from best practices.

According to the mandate guaranteed under the *Law on the National Human Rights Commission of Mongolia*, the Commission actively cooperates with state organizations, civil societies and international organizations in order to encourage ratification of international treaties, by providing suggestions on how to implement the recommendations.

The 12<sup>th</sup> Status Report on Human Rights and Freedoms in Mongolia includes the recommendations of the UN Committee against Torture, the Human Rights Committee and the Universal Periodic Review of the Human Rights Council, compiling the recommendations according to human rights thematic issues. The Commission is concerned that the implementation of recommendations has not been effectively pursued by the Government. Therefore, the Commission incorporated information received from relevant ministries and agencies in the Status report on the implementation process to inform the Parliament.

#### **4.1. Death penalty**

***Recommendation:***

Ratify relevant international instruments, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and take necessary steps to remove the death penalty from Mongolia's justice system

*Recommendations No.84.9, 84.10, 84.11, 84.12 of the Universal Periodic Review*

On 5 January 2012 the Parliament passed a law ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights ('ICCPR-OP'). Through the ratification of the Second Optional Protocol, Mongolia is obliged to abolish the death penalty. However, up to date, the death penalty still exists in the *Criminal Code* of Mongolia. According to the present *Criminal Code*, a judge may sentence

a person to the death penalty. However, in practice, the death penalty has been replaced with an alternative sentence through the President's mercy.

After ratifying an international instrument, a State should take necessary measures to amend national laws to reflect the ratified international instrument. Unfortunately Parliament has not fulfilled its obligations in this regard, and the Second Optional Protocol and *Criminal Code* remain inconsistent with each other.

***Recommendation:***

The State party should render public statistics relating to the death penalty, provide to the Committee information on the 44 persons remaining on death row, should consider commuting all death sentences and should provide relevant information to the families of persons who were executed. The State party should declassify information on the death penalty, and is encouraged to continue its efforts towards its abolition, including by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. The State party should ensure that death row prisoners are treated in accordance with international standards.

*The UN Committee against Torture, recommendation No.19*

The President of Mongolia announced a moratorium on the death penalty on 14 January 2010.

According to information received from the General Authority for Implementing Court Decisions, no executions have taken place during 2012-2013 as a result of Mongolia's ratification to the ICCPR-OP. 33 prisoners have received a pardon from the death penalty, from the President. These prisoners are now in jail<sup>40</sup>.

As of 2013, these prisoners will complete a sentence of 1 to 17 years, and their right to receive visitors, to meet with an attorney and investigator, and their right to food and other supplements, and health care will be ensured in accordance with article 115 of the Law on Implementing Court Decisions<sup>41</sup>

<sup>40</sup> Information received from the General Authority for Implementing Court Decisions through e-mail dated 14 March 2012

<sup>41</sup> Information received from the General Authority for Implementing Court Decisions through e-mail dated 14 March 2012.

## 4.2. Freedom of Information

### ***Recommendation:***

The State party should guarantee the full compliance of the Draft Law on Freedom of Information with the Covenant and enact it. It should consider decriminalizing defamation and ensure that measures are taken to protect journalists from threats and attacks. It should also ensure that all allegations of such threats and attacks are immediately and thoroughly investigated, and that the perpetrators are prosecuted.

*The UN Human Rights Committee, recommendation No.25*

The draft revised law on Freedom of Information, initiated by the President of Mongolia, was submitted to the Parliament during its autumn plenary session in 2012. However, the draft revised law was withdrawn by the initiator.

Articles 110 “insult” and article 111 “defamation” in the *Criminal Code*, were amended and a draft revised law on *Freedom of Information* was submitted, in order to fully implement the concept of the *Law on Freedom of Information*. However the draft amended *Criminal Code* has been withdrawn.

The Independent Anti Corruption Agency has stated<sup>42</sup> that the *Law on Information Transparency and Right to Information*, passed by the Parliament on 16 June 2011, has been a great catalyst for eliminating bureaucracy and red tape, obstacles to accessing government information. The law was developed in compliance with international standards and reflects the recommendations of scientists and researchers. However, there is a vital need to promote the law among the general public, to study its implementation, and to carry out activities aimed at ensuring its implementation.

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<sup>42</sup> Interview with Mr. Batzorig B, the Head of the Research and Analysis of the Independent Anti Corruption Agency on 11 November 2011.

### 4.3. Citizenship

***Recommendation:***

The State party should conduct a thorough analysis of its legal framework to identify the provisions that lead to statelessness, and implement immediate reforms to guarantee the right of all persons to receive a nationality, including for stateless children who were born on the territory of Mongolia to stateless parents. The State party should ensure respect for the six-month legal deadline for the finalization of this procedure.

*The UN Human Rights Committee, recommendation No.26*

The Law on Citizenship, passed by the Parliament in 1995, regulates Mongolian citizenship, acquisition, restoration, cessation and loss of citizenship. It has been amended three times since its enactment.

Between 2001-2011, 34 532 people ceased to be citizens of Mongolia, 713 people restored their Mongolian citizenship, and 121 foreign people acquired Mongolian citizenship<sup>43</sup>.

### 4.4. Freedom of conscience and religion

***Recommendation:***

The State party should develop a thorough analysis of the administrative and practical difficulties faced by religious groups to register and therefore exercise their activities, and adopt the modifications that are necessary in terms of the formulation and application of the Law on Relations between the State and Religious Institutions (1993) and its regulations to bring them in compliance with the Covenant.

*The UN Human Rights Committee, recommendation No.24*

The Government of Mongolia has not made any progress with regards to legislating and regulating the freedom of conscience and religion in response to recommendation 24 of the UN Human Rights Committee.

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<sup>43</sup> Information received from the Office of Immigration, Citizenship and Naturalization on 18 March 2013.

#### 4.5. Right to be free from torture

***Recommendation:***

The State party should without delay adopt a definition of torture that fully complies with international standards and includes punishment proportionate to the gravity of the crime, and the applicability of the prohibition of torture and inhuman or degrading treatment to anyone who commits it, including when acting under orders.

*The UN Human Rights Committee, recommendation No.13*

***Recommendation:***

Amend its *Criminal Code* to define torture as a crime in accordance with the definition in the Convention against Torture and combat impunity in cases of torture.

*The UN Committee against Torture recommendation No. 7, and the UPR of the UN Human Rights Council, recommendations No.84.19, 84.20, 84.21, 84.22, 84.97.*

***Recommendation:***

The State party should ensure that efficient and independent investigative mechanisms be established against impunity regarding torture and ill treatment. Article 44.1 of the *Criminal Code* which stipulates that “causing harm to the rights and interests protected by this Code in the course of fulfilling mandatory orders or decrees shall not constitute a crime” should be immediately repealed. The State party legislation should also clearly stipulate that a superior order may not be invoked as a justification for torture.

*The UN Committee against Torture recommendation No.7*

The UN Treaty Bodies and the Special Rapporteur on Torture are concerned and regret that Mongolia have not defined the crime of torture in accordance with the Convention against Torture. As such, public officials who commit torture and ill-treatment are not given a proper penalty.

60 per cent of complaints and reports of torture lodged by citizens to the Commission and the Special Investigation Unit under the General Prosecutor's Office are alleged against law enforcement officers, including investigators, inquiry officers and intelligence officers. However, act of torture is treated as a minor crime by law enforcement bodies responsible for investigating torture. Therefore, law enforcement officers are merely dealt with through internal disciplinary procedures; they are not capable of being brought to a criminal court due to the failure of the current legislation to recognize law enforcement officers as suspects of torture.

Since the acceptance of the recommendation, no steps have been taken to amend legislation in line with the concept of the Convention.

### ***Establishing a Torture Prevention Mechanism***

#### ***Recommendations:***

The State party should establish an independent mechanism to monitor the places of detention and prisons, and take measures to eliminate the problems of overcrowding in all its prisons and to guarantee the full respect for the United Nations Standard Minimum Rules for the Treatment of Prisoners. Ratify the Optional Protocol to the Convention against Torture.

*The UN Human Rights Committee, recommendation No. 16,  
The UPR of the UN Human Rights Council, recommendations No. 84.2, 84.3, 84.4, 84.79  
The UN Committee against Torture recommendation No. 9*

In order to assist the Government in implementing the recommendation, the Commission has re-submitted the draft law on ratifying OPCAT and has submitted a proposed amendment to the *Law on National Human Rights Commission of Mongolia*, to the Minister of Justice in January 2013.

The Commission believes that the initial steps to implement the recommendations of the UN Human Rights Committee, Human Rights Council and the Committee against Torture have now been taken, given that the Ministry of Justice plans to submit the draft law on the

ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the session of the Government, which is reflected in its 2013 work plan.

### ***Training and human resources***

***Recommendation:***

The State party should ensure the implementation of a systematic and compulsory training course for all law-enforcement, prison and judicial personnel on the prevention and investigation of torture and cruel, inhuman or degrading treatment or punishment.

*The UN Human Rights Committee, recommendation No.15,  
The UN Committee against Torture recommendation No. 14*

The Commission regularly conducts training on the right to freedom from torture, with law enforcement officials, including police officers, judges, prosecutors, court decision implementing officers, and advocates.

Law enforcement bodies have not conducted any training related to the prevention of torture, or the concept of torture through its internal training curriculum.

***Recommendation:***

The State party should ensure that the Investigation Unit has the necessary authority, independency and resources to adequately investigate all offences committed by the police. The State party should ensure that independent and effective mechanisms to receive complaints and conduct prompt, impartial and effective investigations into allegations of torture and ill-treatment are in place.

*The UN Human Rights Committee, recommendation No.13,  
The UPR of the UN Human Rights Council, recommendations No.84.95  
The UN Committee against Torture recommendation No. 11*

Certain steps have been taken to improve the working conditions of the Special Investigation Unit under the General Prosecutor's Office during 2010 and 2012 to investigate acts of torture and ill-treatment<sup>44</sup>.

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<sup>44</sup> Information sent to General Prosecutor's Office from the Ministry of Foreign Affairs on 13 March 2013

## ***Remedy to victims of torture***

### ***Recommendation:***

The State party should ensure that victims of torture can obtain redress and have an enforceable right to fair and adequate compensation and should enact comprehensive legislation which includes torture and ill-treatment as a basis for compensation and reparation.

*The UN Committee against Torture recommendation No. 17*

The act of torture is a crime defined in the *Criminal Code*. Therefore, damages can be claimed in accordance with the general regulation on remedy for criminal acts.

Article 42.1 of the *Criminal Procedure Law of Mongolia* states “A person to whom moral, physical, or property harm is caused, by a crime, shall be deemed to be a victim”. However, this definition is problematic as it does not explain how to measure moral and physical damages.

As such, victims of torture are not adequately compensated, and in some cases remain totally uncompensated due to the law’s inability to deal non-material damage to redress damage.

Courts make decisions redressing the rights of victims based only on documentary evidence including the costs of medical treatment, holding a funeral, and transportation. This documentary evidence can only be authorized by the local financial department in districts and provinces. In another words, the compensation does not include non-material damages, only property damage. According to article 42.3.9 of the *Law on Criminal Procedure*, victims have a right to redress for damages caused by a crime. Unfortunately, the rights of victims can not be redressed due to ineffective legal regulation.

The court refers to clause 228.1 of article 228 of the *Civil Code* to regulate the award of damages in criminal procedure. It states “A party that is responsible for the recovery of damages, shall be liable to restore the violated right of the other party to the condition existing before the damage was inflicted. If it is impossible to restore the violated right or it

requires a considerably high cost, damage can be compensated in cash”.

The *Civil Code* also safeguards the rights of victims to claim compensation for non-material damage. According to the interpretation of the *Civil Code*, “non-material damages include physical and moral damages, loss of enjoyment in life, and mental burden due to a heavy surgery etc.”<sup>45</sup>

However, article 230.2 of the Civil Code states, “If it is specifically provided in law, non-material damage shall be compensated in cash”. The Supreme Court interpreted this article by resolution No.15 issued on 22 May 2009. “Article 230.2 of the Civil Code states that non-material damage shall be compensated in cash if it is specifically provided in law and it shall not be compensated in cash if there is no legal regulation for assessing non-material damages including life, physical and moral harms, pain, and suffering.” This interpretation gravely breaching clause 14 of article 16 of the Constitution which states the, “...right to be compensated for damage illegally caused by others...” by interpreting that the State shall provide compensation for direct damages and non direct damages will not be compensated.

Article 511.1 of the Civil Code states “If the party responsible for distributing information damaging the good name, dignity and business reputation of others, fails to prove that it is true, it shall be liable to compensate non material damage in monetary or other forms, regardless of whether there has been any material loss.” This article provides for non material damage in a monetary or other form.

In addition, according to article 391.3 of the *Law on Criminal Procedure*, “Claim for cash compensation of damages for mental harm caused shall be lodged according to rules provided by *Law on Resolving Civil Cases in Court*”, which indicates a right to claim cash compensation. However, it is not possible to claim compensation for moral damages in other cases unless it is specifically provided in law.

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<sup>45</sup> Page 458 of Interpretation of Mongolian Civil Code by Jo.Cayut and E. Schpangler, 2010

Compensation for expenses related to the funeral of a deceased after receiving injuries is provided for in the article 508.1 of the Civil Code: “The heir of the person who is deceased after receiving injuries shall have the right to demand reimbursement for the expenses related to the funeral and compensation for the damages”. Despite this case, the previous interpretation of the Supreme Court, means that cash compensation remains inaccessible when there is no legal regulation for assessing non-material damage.

The regulation of compensation for damages caused by the unlawful actions of an inquiry officer, investigator, procurator or a judge during a criminal procedure is provided in the article 44 of the *Law on Criminal Procedure*. Thus, it is possible to claim compensation for damages, including some forms of torture.

Article 388.1 of the *Law on Criminal Procedure* states that “A citizen of Mongolia, foreign citizen and stateless person shall have the right to compensation for property damage, mental harm caused by the unlawful actions of an inquiry officer, investigator, procurator or a judge, and to have their right for pension, benefits, possession of dwelling and other rights restored”.

The Supreme Court interprets<sup>46</sup> “...unlawful actions...” as defined in article 388.1 to extend to situations specified in article 389.2 of the Law as well as torture, cruel and inhuman, degrading treatment committed during a criminal procedure. The interpretation enables a victim of torture to claim compensation.

Thus, a victim of torture can claim compensated by the State through filing a civil suit based on article 44 of the *Law on Criminal Procedure* and the aforementioned interpretation of the Supreme Court.

However, the current laws in effect do not differentiate between the concept of “damage” and “loss”. As such, a victim of torture is not able to access compensation for health and mental damage in an effective way.

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<sup>46</sup> The Supreme Court resolution No.45 issued on 30 Oct, 2006

Damage and loss have a different meaning. For example, damage means negative consequences caused by an action or an omission of another person. “Damage” has a wider definition than the meaning of “loss”. In other words, damage includes all negative consequences derived from the damage sustained. For example, if a victim is dead, then the pain, suffering, and deterioration of his/her livelihood encountered by his/her family will be considered as damage.

According to international legal instruments, a State is responsible for providing compensation for damages due to torture. However, the above-mentioned example demonstrates that there is no domestic legal regulation that obligates the State to provide compensation for damages of torture. Therefore, it is essential to implement the recommendation of the UN Committee against Torture promptly.

### ***Improving legislation related to prohibition of torture***

***Recommendation:***

The State party should amend article 19(2) of the Constitution and the Law on State of Emergency to ensure that national law prohibits derogation from the provisions of the Covenant which are considered non-derogable, and take all the necessary measures to enable its immediate implementation and effect.

*The UN Human Rights Committee, recommendation No.11*

No amendment has been made to article 19.2 of the Constitution since the above recommendation. In addition, there has been no amendment to the Law on State of Emergency which was passed on 14 November 1995. Therefore, the recommendation has not been implemented.

***Recommendation:***

The State party should ensure that no statement which is established to have been made as a result of torture shall be invoked as evidence in any proceedings. The State party should introduce a legal obligation to record interrogations systematically, and provide the necessary financial, material and human resources to that end. Regulations should also be adopted and implemented by the State party to control the storage of monitoring information and its use in later investigations.

*The UN Human Rights Committee, recommendation No.11,  
The UN Committee against Torture, recommendation No.18*

The Commission included a specific recommendation on this issue in its 10<sup>th</sup> annual Status Report, however the recommendation has not implemented.

***Training of law enforcement officers***

***Recommendation:***

The State party should ensure the implementation of a systematic and compulsory training course for all law-enforcement, prison and judicial personnel on the prevention and investigation of torture and cruel, inhuman or degrading treatment or punishment.

*The UN Human Rights Committee, recommendation No.15, The UN Committee against  
Torture, recommendation No. 14*

The Commission carries out trainings on the right to freedom from torture, with law enforcement bodies, specifically judges, procurators, and law enforcement officers.

Unfortunately, law enforcement bodies have not made the training course mandatory for law enforcement officials, as recommended by the UN Human Rights Council, Human Rights Committee, and the Committee against Torture. These trainings should become mandatory under national laws and regulations.

In accordance with Mongolian laws, advanced training for lawyers is being conducted by various organizations operating separately without any coordination. Despite the fact that the National Legal Institute conducts advanced training for lawyers and provides credit, there has not been any training on human rights, including the right to freedom from torture, and the prevention of torture, at the Institution. Law enforcement officials do not participate in the advanced training, instead holding in-house training.

According to the legislation, internal rules and the code of conduct of those bodies, there is no legal regulation to organize mandatory training courses on human rights and prevention of torture, for law enforcement officials and other related officials.

### ***Remedy to victims of public riot on 1 July 2008***

#### ***Recommendation:***

The State party should take the necessary measures to thoroughly investigate all allegations of human rights violations committed during the State of Emergency of July 2008, including in the cases where compensation has been paid to the families. It should also ensure that those involved are prosecuted and if convicted punished with appropriate sanctions, and ensure that the victims are adequately compensated.

*The UN Human Rights Committee, recommendation No.12*

Parliament passed the *Law on Compensation for Victims*, on 9 July, 2009. The Law regulates the award of compensation for police officers, soldiers, and officers of the State Office of Emergency, who lost their life, and suffered ill-health and material damage, under the State Office of Emergency Riot, which took place at Sukhbaatar District of Ulaanbaatar Capital, on 1<sup>st</sup> July 2008.

According to the Law, the family of the deceased will be compensated with an amount of fifty million Tugrug. Furthermore, compensation for injuries to a civil special servant who was on duty, will be set at 36 times his/her monthly salary if his/her injury is grave/

serious, 12 times if a state of injury is less grave/serious, and the amount of compensation for citizens who suffered health damage will be set at 112 times the minimum wage if a state of injury is grave/serious, 37 times if a state of injury is less grave/serious, and 9 times if a state of injury is light by the State Budget.

#### 4.6. Arrest and detention procedures

***Recommendation:***

The State party should take prompt and effective measures to ensure that all detainees are afforded all fundamental legal safeguards from the very outset of their detention. These include the rights of detainees to be informed of the reasons of their arrest, to have prompt access to a lawyer and, when necessary, to legal aid. They should also have access to an independent medical examination, preferably by a doctor of their own choice, to notify a relative and to be brought promptly before a judge, and to have the lawfulness of their detention reviewed by a court, in accordance with international standards.

*The UN Committee against Torture, recommendation No. 8*

No information was received with regards to this recommendation from the Government of Mongolia.

#### 4.7. Gender Equality

***Recommendation:***

Adopt expeditiously a law on gender equality, empower its National Committee on Gender Equality, and take appropriate measures to eliminate discrimination against women, with a particular focus on the most vulnerable groups, such as rural women. Develop policies favouring equal opportunities for women, harmonize its national legislation with ratified international instruments, and take measures to increase the participation of women in decision-making positions in the Parliament, the public and private sector.

*The UN Human Rights Committee, recommendation No.8*

*The UPR of the UN Human Rights Council, recommendations No.84.45-84.50, 84.102*

Parliament passed the *Law on Promotion of Gender Equality* in 2011. The Law is crucial, creating a legal environment where gender

equality in political, legal, economic, social, cultural, and family relations is safeguarded, and ensuring the human rights and implementation of Millennium Development Goals.

The Government of Mongolia adopted the Mid-term strategy and Action Plan for the implementing the *Law on Promotion of Gender Equality* through resolution No.34, issued on 26 January 2013. The Action Plan strengthens the national mechanism for the implementation of the Law, building the capacity of local and regional bodies, applying the concept of gender equality at all policy and action levels, ensuring diverse participation of civil society, media, and private sectors in monitoring the implementation of the Law, ensuring the sustainability of human and financial resources.

The adoption of the Action Plan by the Government of Mongolia was a progressive step towards ensuring the implementation of the Law in an effective way, and providing technical, human, and financial resources to those organizations responsible for its implementation, including central and local governments.

#### 4.8. Domestic Violence

**Recommendation:**

The State party should fully combat violence against women, in particular it should also criminalize marital rape and sexual harassment and intensify its strategies of information and prevention of domestic violence against women through information campaigns. In addition, it should ensure that public officials are fully familiar with applicable relevant legal provisions and sensitized to all forms of violence against women and adequately respond to them. The State party should also ensure that all women who are victims of violence have access to immediate means of redress and protection, including protecting orders, access to safe shelters, and medical examination and rehabilitation assistance in all parts of the country. Perpetrators of violence against women should be duly prosecuted and, if found guilty, convicted and sentenced with appropriate penalties.

*The UN Human Rights Committee, recommendation No.18,  
The UPR of the UN Human Rights Council, recommendations No.84.54,  
The UN Committee against Torture, recommendation No.20*

According to police statistics, 284 women in 2010, 420 women in 2011 and 534 women in 2012 respectively, reported that they were victims of domestic violence. This crime is hidden in society. Its victims do not often submit reports to the police, even though domestic violence occurs at all levels of society.

Victims of domestic violence seek assistance from the National Center against Violence (‘NCAV’) and seek refuge in the Protection House when their life and health are at a great risk. The number of victims who approach the protection house is increasing each year. As of 2012, 64.2% of the clients were children. Today there is only one protection house which is run by NCAV<sup>47</sup>.

There are only one or two NGOs that provide services including psychological counseling to victims of domestic violence at the protection house. In other words, government is not providing these vital services.

The number of victims of domestic violence who seek assistance from a hospital or all-in-one service window is increasing every month. In addition, the number of crimes committed by victims of domestic violence against their abusers is not decreasing. While the number of crimes related to the domestic violence is increasing, the implementation of the *Law against Domestic Violence* remains inefficient.

The main factor responsible for the poor implementation of the Law is the lack of a comprehensive legal environment. The Law was passed without a number of necessary regulations and relevant amendments have not been made to other laws yet. For instance, after the enforcement of the *Law against Domestic Violence*, the court issued 41 resolutions regarding the protection and safety of victims. Unfortunately no resolutions have been implemented so far<sup>48</sup>.

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<sup>47</sup> Information received from the Centre for Human Rights and Development NGO to the NHRCM on 1 March 2013

<sup>48</sup> Analysis on criminal procedure that deprives rights of perpetrators of domestic violence by National Centre against Violence, 2009.

## 4.9. Prevention of human trafficking

### ***Recommendation:***

The State party should take all the necessary measures to guarantee that all cases of human trafficking are investigated, prosecuted and, if resulting in convictions, adequately sanctioned. The State party should also implement mechanisms to protect witnesses and victims during all stages of the judicial process. State resources should be allocated for the establishment and running of shelters for victims of trafficking, adopt anti-trafficking law, expand the national programme on the prevention of human trafficking, particularly the use of children and women for sexual purposes, with a view to dealing with all violations of provisions of the Palermo Protocol, in line with the recommendations of the Committee on the Rights of the Child;

Enact domestic legislation to prevent human trafficking and protect victims and witnesses of human trafficking, continue its policies against trafficking, further strengthen the law enforcement and judicial system in the effort to address impunity and prevent the incidence of trafficking, ensure the rehabilitation and social integration of victims of trafficking, and provide compensation for victims, strengthen its institutional capacity for investigation of cases of human trafficking and prosecution of perpetrators, expand awareness-raising campaigns to counter human trafficking.

The State party should conduct appropriate trainings of law enforcement officials, investigators and prosecutors on the laws and practices of trafficking in human beings. Trafficking in persons should be prosecuted under article 113 of the *Criminal Code*. The State party should establish independent mechanisms with sufficient and appropriate human and financial resources to monitor the implementation of measures to combat trafficking in persons. The State party should also conduct independent, thorough and effective investigations into all allegations of trafficking in persons, including allegations against law enforcement officials. The State party should also continue and increase international, regional and bilateral cooperation on this issue.

*The UN Human Rights Committee, recommendation No.21,  
The UPR of the UN Human Rights Council, recommendations No.84.23, 84.24, 84.25,  
84.43, 84.80, 84.81, 84.82, 84.83, 84.85, 84.85, 84.86, 84.87, 84.97  
The UN Committee against Torture, recommendation No.21*

Mongolia has ratified the *UN Convention against Transnational Organized Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and Parliament has subsequently passed the *Law on Combating Trafficking in Persons* on 19 January 2012, which aims to identify the causes of human trafficking, and to protect the victims.

***Recommendation:***

Adopt specific measures for the protection of minors and women who have become victims of sexual exploitation, ensure prompt investigation, and address the issue of consequent low ratio of prosecutions against perpetrators.

*The UPR of the UN Human Rights Council, recommendations No.84. 88-84.91*

In relation to the enactment of the *Law on Combating Trafficking in Persons*, eight laws were amended and the mandate of the police and intelligence agency were broadened to deal with these crimes under the *Law on Criminal Procedure* and the *Law on the Prevention of Crimes*. In addition, sentences and accountability for the crime of trafficking persons were increased under the Law. According to the new law, the financial penalty has been removed and an extenuating circumstances and aggravation now provides a sentence of 3-15 years imprisonment and the seizure/confiscation of the properties of the convicted is also stipulated.

*The National Action Plan against trafficking and the sexual exploitation of women and children* is being implemented by the Government of Mongolia in 3 phases (1<sup>st</sup> phase from 2006-2008, 2<sup>nd</sup> phase from 2008-2011 and 3<sup>rd</sup> phase 2011-2014).

As of 2012, about 20 organizations are working in the field of combating the trafficking of persons. Two organizations provide victims with protection shelter houses, five organizations provide legal advice, four organizations provide psychological advice, and about ten organizations provide training and rehabilitation services<sup>49</sup>.

<sup>49</sup> Information received from the Ministry of Population Development and Social Protection through e-mail on 12 March 2012.

However, there is a need to implement the UN treaty bodies' recommendations through strengthening domestic laws on the protection of victims and witnesses, taking necessary steps and providing financial resources for establishing more protection houses for victims, providing compensation for victims, and victims rehabilitation services.

#### 4.10. Social welfare

***Recommendation:***

Undertake special measures to support employment, social welfare and protection of the rights of vulnerable groups, in particular, children, women, persons with disabilities and elderly.

*The UPR of the UN Human Rights Council, recommendations No.84.38, 84.53, 84.59*

The *Law on Social Welfare* was revised in 2012 and is now in effect. The basic concept of the social welfare system, which is designated for vulnerable groups, remains the same in the revised law and amendments were only made to criteria and conditions under the social welfare coverage.

The Parliament passed the revised *Law on Social Welfare, Law on Social Protection for Elders* and amendment of *Law on Social Protection for People with Disabilities* in January 2012. In relation to implementing these laws, six resolutions of the Government, 14 resolutions of the Minister of Social Protection and Labour and the Minister of Population Development and Social Protection, three joint-resolutions of the Minister of Social Protection and Labour and Ministers of other relevant Ministries, and three resolutions of the Director of General Office for Social Welfare Services, which covers a total of 24 rules and regulations, were respectively adopted.

***Recommendation:***

Adopt the new 10-year National Programme on Strengthening Child Development and Protection, reinforce the human rights issue in school curricula, and take additional measures to fight against dropping out of school, particularly among boys.

*The UPR of the UN Human Rights Council, recommendations No.84. 26, 84. 27, 84.111, 84.112*

The Government of Mongolia has been implementing the National Programme of Action for the Development and Protection of Children from 2002-2010, and the Strategy Plan for Strengthening the Protection of Children from 2011-2016.

As of 2011-2012 curriculum year, 12 025 pupils were educated within the education recovery programme. 1 545 out of 12 025 pupils graduated 9<sup>th</sup> grade and were certified with basic education. 1 194 out of 12 025 pupils graduated 11<sup>th</sup> grade and were certified with secondary education. In addition, 9 000 people including 120 children studying in Buddhist temples and 78 children living in isolated baghs<sup>50</sup> were involved in the literacy recovery programme for elementary, intermediate, and advanced level education. 1.2 billion Tugrug has been allocated in the budget for the 2013 curriculum year towards the education recovery programme.

The number of school drop outs is gradually decreasing; dropping from 706 between 2009-2010, to 543 between 2010-2011, and to 502 between 2011-2012.

#### **4.11. Reducing maternal mortality**

***Recommendation:***

The State party should urgently take all necessary measures to reduce maternal mortality including by implementing the project of the nationwide network of national ambulance services and opening new medical clinics in rural areas. It should also include within its priorities improving access to health services for cases of high-risk pregnancies throughout the country.

*The UN Human Rights Committee, recommendation No.20*

The National Development Strategy of Mongolia was developed on the basis of the state policy on the population and the Millennium Development Goals.

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<sup>50</sup> Smallest administrative unit in rural areas

Progress has been made in order to reduce the maternal mortality rate through implementing the “Reducing Maternal Mortality” strategy<sup>51</sup> through the “Reproductive Health” national programme<sup>52</sup> with 4 phases which aimed to improve women’s health and to ensure qualitative and accessible health care services. A consultation meeting was also held on “Improving the quality of health care services for mother and infants” in 2012. In addition, several trainings were held with the heads of maternity units, gynecologists, obstetricians, pediatrics, family physicians, and doctors from soums.

The Ministry of Health has also taken steps to improve the national ambulance service nationwide and has opened new medical clinics in rural areas, in accordance with the recommendation. These additional services include an ambulance branch in Bayanzurkh and Songinokhairkhan districts, an extension of the maternity facility with 150 beds at Maternity Clinic No.1, new maternity facility with 50 beds in Bayankhongor, Khuvsgul, Uvs and Khovd provinces, and a maternity facility with 15 beds in Govisumber province through the Program of the Nationwide network of national ambulance service.

According to information received from the Ministry of Health further projects are being built, including a National Centre for Maternity Health with 300 beds, a Maternity Clinic No.3 with 150 beds, and maternity facilities with 50 beds in Bulgan, Zavkhan, Govi-Altai, Dornogovi, Sukhbaatar, and Dornod provinces. Furthermore budgets have been approved in 2013 for building maternity facilities with 50 beds in Khanbogd and Tsogts-Tsetsii soums of Umnugovi province.

In previous years, herder women’s maternal mortality rate was relatively high as it reached 49% in 2004. Through improving the health care of herder women and ensuring their access to maternal health care service, their maternal mortality rate has decreased. For example, the maternal mortality rate has declined from 37% in 2010 to 13% in 2012<sup>53</sup>.

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<sup>51</sup> National Programme for “Reproductive Health” 2012-2016 adopted by the Government resolution No.61 in 2012

<sup>52</sup> Strategy on “Health of Mother and Infant” 2011-2015 approved by the resolution No. 456 of Minister of Health

<sup>53</sup> Information received from the Ministry of Health to the NHRCM on 14 March 2013

There are a total of 339 maternity centres in operation at the national level and 77.9% of the expected mothers are currently giving birth through these maternity centres. Access to maternity centres is the key indicator contributing to reducing the maternal mortality rate of herder women who live in isolated regional areas.

The Ministry of Health states that there is no incidence of maternal mortality due to late delivery of health services. This is because the Ministry has advised relevant health offices in the provinces to take expected mothers to maternity centres in advance, in order to prevent difficulties in reaching the maternity ward in regional areas.

However, in recent years, the mass media has reported cases of maternity and infant mortality as well as other patient mortality caused by of the malpractice of doctors.

Therefore it is a vital to undertake necessary measures, including carrying out effective research on health service delivery, building a culture of accountability, professionalism, and improving the skills of doctors and medical officials, and improving the conditions in maternity centres.

#### **4.12. Combating all forms of forced labour**

***Recommendation:***

The State party should combat all forms of forced labour and should take all necessary measures to ensure that children do not work in hazardous labour conditions, including artisanal (informal) mines and ensure also that adults who work in such facilities have improved conditions in accordance with international standards and in particular with the ILO Conventions ratified by the State party. The State party should take measures to monitor and address child labour and combat it, including by criminalizing employers exploiting child labour and bringing them to justice. The State party should also enhance measures with regard to the situation of street children. Seek international assistance to combat child labour, such as through the International Labour Organization.

*The UN Committee against Torture, recommendation No.22*

*The UPR of the UN Human Rights Council, recommendations No.84. 92, 84.93,84.117*

One of the negative social phenomena arising out of the rapid economic transition of Mongolia is the issue of child labour. Child labour, specifically, the worst forms of child labour, negatively affecting their health and physical and mental development, is due to poverty, unemployment, and unequal access to social services, internal displacement, business interests in cheap labour, and the misconception of parents about child labour.

According to research carried out by the National Statistical Committee, 93.9 thousand children aged between 5-17 years have engaged in economic activities during 2011-2012. 0.3% of these children work in the mining sector, 81.7% work in the agricultural sector, 3% work in processing factories, and 11.8% work in trade and commerce respectively.

The Government of Mongolia has adopted the national programme on eliminating the worst forms of child labour by resolution No. 303 in 2011, in order to implement the objectives<sup>54</sup> set out at the international level. The objectives are to improve the legal environment to prohibit and eliminate the worst forms of child labour and to increase children's access to education and health care services. The national programme for 2012-2016 has commenced its 2<sup>nd</sup> implementation phase.

Within the structure of the new cabinet, the National Authority for Children has been restructured and under the portfolio of the Ministry of Population Development and Social Protection. This change has advanced the issue of child labour, by addressing it in a comprehensive way within the framework of the population development policy<sup>55</sup>.

In recent years, Mongolia's economic growth has increasing mainly due to mining and processing factories. In relation to the economic growth in these industries, the informal sector is also expanding, and as a result, there are about 70 thousand people including children engaged informally in the mining industry. Therefore, these industries must pay

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<sup>54</sup> Global Child Labour Conference held in Hague, Netherlands in May 2010

<sup>55</sup> Information sent to the NHRCM from Ministry of Labour on 18 March 2013

particular attention to the rights of children who are taking part in these kinds of activities<sup>56</sup>.

### 4.13. Eliminating corporal punishment of children

***Recommendation:***

The State party should take urgent measures to explicitly prohibit corporal punishment of children in all settings (in schools, children's institutions and in the home, in particular in rural areas). The State party should also ensure through appropriate public education and professional training, positive, participatory and non-violent forms of discipline.

*The UN Committee against Torture, recommendation No.23, 24*

37% of Mongolia's population are children and adolescents. One in three children is victims of corporal punishment. For instance, 42.3% of corporal punishments take place at home, 53.2% take place at school and 5% take place in public places. In addition, 71.1% of these children are victims of physical punishment while 41.9% are victims of verbal punishment<sup>57</sup>.

From 2007-2010, 4342 children incurred in criminal offense and of which 434 or 10% of them died, 2473 or 57% of them injured. For instance, only in year of 2010, 1066 children incurred in criminal offense and of which 86 or 8.1% of them died and 568 or 53.3% of them injured<sup>58</sup>.

Corporal punishment violates the fundamental human rights of children including their human dignity and inviolable rights. By pardoning the violations of parents, teachers and legal guardians through legal exemptions, the child's right to be protected equally before the law is being violated. According to article 19 of the *Convention on the Rights of Child*, State Parties must "take all appropriate legislative,

<sup>56</sup> Resource from the Ministry of Labour. 2011 Report of Authority for Mineral Resources

<sup>57</sup> "Physical and mental corporal punishment against child: "Opinion of child" Research conducted by Proper Development Gender Center and Save the Children UK, 2009

<sup>58</sup> Causes of children committed a crime and they are being offended a criminal case" research by the General Police Department, 2011

administrative, social and educational measures to protect the child from all forms of physical or mental violence” while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Through a combination of legal reforms and public education outreach, it is possible to eliminate all forms of corporal punishment.

In relation to bringing domestic laws into compliance with the *Convention on the Rights of the Child*, the *Law on Protection of the Rights of Child, Family Law* and the *Law against Domestic Violence* are being revised and will be discussed by the Parliamentary plenary session of autumn 2013. In terms of reforming protection mechanisms for the rights of children, the *Law on Protection of the Rights of Child* is currently being reviewed.

#### 4.14. National minorities

***Recommendation:***

Provide adequate minority protection for indigenous and tribal groups;

*The UPR of the UN Human Rights Council, recommendations No.84.113*

Ensure a participatory and inclusive process with civil society in the implementation of the universal periodic review recommendations, including organizations representing minorities;

*The UPR of the UN Human Rights Council, recommendations No.84.35*

While taking note of the measures taken to promote the access to education of the Kazakh people, the Committee remains concerned about the difficulties faced by this population to have access to education in their language. The State party should further promote the access of the Kazakh people to education in their own language.

*The UN Human Rights Committee, recommendation No.27*

The Commission has included recommendations for ensuring the rights of national minorities namely the Tuva and Kazakh peoples in

its status report for 2011. The recommendations including to develop and implement policies that address their social issues immediately; provide them with livelihood opportunities; establish external monitoring and evaluation on the implementation of programs and projects managed by the State with involvement of representatives of national minority groups; ensure the implementation of the right to health; implement reducing poverty project programs; undertake an accurate study of their civil registration; and introduce and implement changes to policies providing education to national minority children and ensuring the implementation of the right to communicate, read and obtain information in one's native language. During that time, the Ministry of Education, Culture and Science commenced a translation of textbooks for Kazakh children from 2008 in line with the 12 year secondary school system. For example, some textbooks for elementary grades were translated from Mongolian to Kazakh language<sup>59</sup>.

Moreover, the Governor's Office of Bayan-Ulgii aimag undertook and analysed a survey on the curriculum content of Kazakh schools and introduced<sup>60</sup> a project proposal to the Ministry of Education, Culture and Science, on the Bayan-Ulgii aimag policy of textbooks within the project framework of "Curriculum content of Kazakh schools". The above information was included in the status report for 2010. Furthermore, the Ministry of Education and Science<sup>61</sup> has published some 12 year school textbooks such as Mathematic II, III, Human environment I, III, Art and Technology II, III, and Music II, III in the Kazakh language.

Regrettably there has not been any work undertaken with regards to the implementation of the Tuva language program, and translation and publication of textbooks in Tuva language from Mongolian.

Finally, it is commendable that the Government is implementing the program "Invigorating Reindeer Farms and Improving the Livelihood of Tsaatan People" as the Tsaatan people earn their livelihood by herding reindeers. However, there was no information received with regard to

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<sup>59</sup> 10<sup>th</sup> Status Report on Human Rights and Freedoms in Mongolia by the NHRCM, page 95, 2011.

<sup>60</sup> 10<sup>th</sup> Status Report on Human Rights and Freedoms in Mongolia by the NHRCM, page 95, 2011.

<sup>61</sup> <http://www.meds.gov.mn/> Textbooks and learning materials

implementation of their right to social welfare, and the right to education of Tsaatan children.

Currently, there is insufficient representation of minority groups in local self-governing and administrative bodies. There is an urgent need to take specific measures by the State to involve local representatives from national minority groups, for example, in local self-governing bodies of Tsagaannuur soum of Khuvsgul province and some soums of Bayan-Ulgii province. In addition, the Government should address breaches to the right to a fair trial, specifically in criminal procedure due to insufficient access to laws and legislations in national minority languages. Examples of two cases involving violations of the rights of national minorities are as follows:

Over the last few years, a group of criminals illegally used the personal registration information of Kazakh Mongolian people residing in the Bayan-Ulgii province, to produce fake Kazakhstan documents, which had the effect of excluding the victims from their Mongolian citizenship, and allowing the criminals to claim allowances from the Republic of Kazakhstan, by purporting that they are citizens of Republic of Kazakhstan.

Therefore, it is necessary to urgently restore the rights of these Kazakh people who now have no access to social welfare in Mongolia due to the frauds committed against them. It is advised that the Government of Mongolia work together with relevant authorities of the Republic of Kazakhstan in order to redress damage occurred to these individuals.

Unfortunately, the citizenship registration databases and information archives of some national minorities living in isolated areas have been destroyed. They are now facing difficulties claiming their rights to social welfare including social service and pension benefits due to the loss of key documents. For example, a school of Tsagaannuur soum of Khuvsgul province was burnt down in 2000 and all documents and archive materials of the Tuva citizens were destroyed. Unfortunately, the relevant ministries and agencies have not taken any action to address

this situation, despite the fact that they were informed about this case several times.

#### **4.15. Right to health of people with physical and mental disabilities**

***Recommendation:***

The State party should, as a matter of urgency, strengthen the legal provisions in relation to the rights of persons with disabilities including persons with mental illnesses and intellectual disabilities, and should establish monitoring and oversight mechanisms for places of hospitalization. The State party should strengthen alternative methods of treatment and care and should give priority to increasing the number of psychologically/psychiatrically skilled professionals.

*The UN Committee against Torture, recommendation No. 26*

In 2009, Parliament passed the law with regards to the ratification of the *Convention on the Rights of People with Disabilities*. In its initial report (2011), the Government of Mongolia included a number of information<sup>62</sup> such as new home service to people with disabilities and medical rehabilitation training for relevant medical professionals since 2008 in order to improve quality of health care to the people with disabilities.

It is commendable that trainings for professionals are being conducted within the framework of the rehabilitation programme for people with disabilities with support from the community. However, it is essential that monitoring and oversight mechanisms for hospitals for people with disabilities are established.

According to the Ministry of Health's information on protecting the rights of people with mental illness, the following changes were made to the *Law on Mental Health* which was passed on 3 January 2013 by the plenary session of the Parliament:

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<sup>62</sup> Information received from the Ministry of Foreign Affairs to the NHRCM via e-mail on 5 March 2012

- adequate financial resources were allocated for the improvement of equipment and tools necessary for mental and social rehabilitation care;

- a specific service was created in relation to social welfare and education; and

- centers supporting the social needs of people with mental illness and “Care Houses” with caretakers for people with mental illness without housing were established in provinces and districts.

In addition, the following protections were defined more clearly in the revision:

- consent procedure to have a medical treatment;

- refusal to receive any medical treatments or to undertake a medical test

- lodging complaints to relevant bodies regarding health care services;

- rights and responsibilities of legal representatives or legal guardians; and

- confidentiality of information on treatment and diagnosis of the persons with mental illness<sup>63</sup>.

Mongolia has adopted the following laws, regulations, and programmes for the purpose of protecting the mental health of the population at the national level:

- *Law on Health* (2011);

- *Law on Mental Health* (2000);

- “Code of conduct for mental health care services” adopted by the resolution No.210 of Minister of Health in 2010; and

- the 2nd national programme on mental health was adopted by the Government (2010-2019) and is being implemented in phases. However, there is still a need to ensure the human rights of people with mental illness on treatment procedures<sup>64</sup>.

The work plan for the program envisages establishing care facility

<sup>63</sup> Official letter No. 16/952 sent to the NHRM from the Ministry of Health on 14 March 2013

<sup>64</sup> Page 93-94, Chapter four of the Status Report on Human Rights and Freedoms in Mongolia by the NHRM, 2012

for mentally-ill patients with no guardians<sup>65</sup>. The main responsible body for implementing the programme was the Ministry of Social Protection and Labour in cooperation with the Ministry of Health, National Center for Mental Health, and World Health Organizations from 2011-2012.

As a follow-up to the programme, under the Ministry of Social Protection and Labour, a co-working group was established involving representatives from Ministry of Health, National Human Rights Commission, National Center for Mental Health, General Authority for Children, and Department of Labour and Welfare to establish care houses designed for those people with mental illness who have no legal guardians and for those orphaned children with serious disabilities. However, there has been no action taken under the Programme.

It is commendable a number of regulations under the *Law on Mental Health* were revised to provide protections for the rights of people with mental illness; however, it is a vital that care houses are established in provinces and districts as soon as possible.

#### **4.16. National human rights institution**

***Recommendation:***

The National Human Rights Commission of Mongolia, which has an “A” status accreditation, should play a decisive role in the exercise of drafting a gender equality law as well as during its implementation;

*The UPR of the UN Human Rights Council, recommendations No.86.6*

The Parliament passed the *Law on Promotion of Gender Equality* in February 2011. The mandate of the Commission is reflected in article 23, 24 and 26 of the Law. According to the Law, the Commission is mandated to receive and resolve complaints regarding gender-based violations, and to submit a status report on the implementation of the gender law to the Parliament every two years.

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<sup>65</sup> Page 93-94, Chapter four of the Status Report on Human Rights and Freedoms in Mongolia by the NHRM, 2012

However, the necessary human and financial resources in relation to implementing the additional mandates under the Law are not available in its budget. The mandates includes to:

- monitor the implementation of the *Law on Promotion of Gender Equality*;
- conduct awareness raising activities on gender equality among the general public, state organizations and private sectors;
- conduct gender-analysis on laws that breach gender equality;
- collect data on gender equality; and
- investigate and resolve complaints regarding gender-based violations.

***Recommendation:***

The State party should strengthen its efforts to ensure that the NHRC enjoys independence by providing adequate funding and human resources, and revising the appointment process of the Commission.

*The UN Human Rights Committee, recommendation No.5*

The State party should ensure that the appointment process of the NHRCM governing body is transparent and that consultations should be comprehensive and open, including an enhanced engagement with civil society.

The State party should strengthen the independence and capacity of NHRCM and ensure that it is not restricted in its activities. The NHRCM should be provided with human, financial and material resources enabling it to fully comply with its mandate.

The NHRCM should have the capacity and powers to systematically visit all places of detention, also on an unannounced basis, be able to address allegations of torture and ensure that measures of redress and rehabilitation are taken in appropriate cases. The NHRCM should be included in trainings on the absolute prohibition of torture for law enforcement personnel and staff of the criminal justice system. The NHRCM should also be involved in conducting awareness-raising campaigns on human rights issues for the general public.

*The UN Committee against Torture, recommendation No. 12*

The Commission is an autonomous and independent institution which is in full compliance with the Paris Principles of the National Human Rights Institutions adopted by the United Nations General Assembly in 1993. The International Coordinating Committee of the National Human Rights Institutions has accredited the Commission of Mongolia with an “A” status in 2003 and 2008. The Commission will be reviewed for its accreditation by the International Coordinating Committee in 2013. A national human rights institution with an “A” status has a right to speak at the sessions of the UN bodies.

The Commission carries out a wide range of activities within its mandates to oversee the implementation of human rights, and protect and promote human rights and freedoms. The Commission has three full-time Commissioners, 25 staff members, and has no regional branches.

This relates directly to the Commission’s budget. Over the past couple of years, the Commission’s budget has increased by 56 percentages from 2010 as a result of the efforts of the Commission to increase the Commission’s budget, specifically its budget for carrying out human rights activities.

The Capacity Assessment of the Commission was undertaken by and with the support of the UN Office of the High Commissioner for Human Rights, the UN Development Programme, and the Asia Pacific Forum of National Human Rights Institutions (‘APF’). As a result of the Capacity Assessment, the Commission is now implementing the project “Strengthening the national oversight capacity of the human rights” over a term of three years with the support of the UN Development Programme.

Despite the fact that the Commission’s budget has increased and it is receiving support from international organizations, it still faces difficulties in financing human rights outreach activities at the national level, such as collecting human rights information, monitoring the situation of human rights, providing people living in regional areas and isolated areas with legal advice and human rights information.

#### 4.17. Advocate's Association

***Recommendation:***

The State party should take measures to promote the effective application of the provisions of the Covenant before domestic courts, including by the organization of compulsory training programs and follow-up programs for judges and lawyers on international human rights treaties. The State party should ensure that references to Covenant provisions during legal proceedings should not be met with a response that threatens the right to a fair trial.

*The UN Human Rights Committee, recommendation No.4*

The State party should take all the necessary measures to guarantee the independence of the lawyers and of the Law Association. It should also ensure that the necessary budgetary allocation and human resources are provided to the legal centers, including in the rural areas, paying special attention to strengthening the access to legal aid services.

*The UN Human Rights Committee, recommendation No.22*

In 2013, the Government of Mongolia took actions to strengthen legal aid centers. For example, the Ministry of Justice organised qualification examination for legal professionals. Those who passed the examination were awarded permits to practice law. Similar qualification examinations were organised among lawyers in the regions. As a result, 81 lawyers were awarded permits for advocacy in 2012. Financial support was provided to 37 legal aid centers located in central, provinces, and districts.

Finally, lawyers and officers in charge of promotional activities of the Legal aid centers under the Ministry of Justice, organised workshops and seminars for legal aid lawyers in the Zavkhan province with the support of the UN Development Programme.

As part of the campaign “Legal aid centers” carried out by the Ministry, staff of 37 legal aid centers working in the Kharkhorin soum of Uvurkhangai province, Tariat soum of Arkhangai province, and

Tosontsengel and Uliastai soum of Zavkhan province, gave legal advice to 250 people free of charge and conducted awareness raising activities with local people.

#### **4.18. Alternate forms of military service**

***Recommendation:***

The State party should put in place an alternative to military service, which is accessible to all conscientious objectors and neither punitive nor discriminatory in nature, cost and/or duration.

*The UN Human Rights Committee, recommendation No.23*

Article 12.5 of the *Law on Civil Military Service Duties and Legal Status of the Military Personnel* states that “For the reasons of religious faith or moral/ethic belief, a citizen of age between

18-25 or the one with 2nd grade military reserve duty may join an alternate form of military service in professional or specialised civil defence units and sub-units or paramilitary unit for Boarder troop’s assistance and other humanitarian organisations.” The terms for alternative service is up to 24 months and the Government may extend the term by up to 3 months given its consideration of a extraordinary situation of disaster protection or national border protection. Additionally, article 12.8 of the Law defines “...the form of an alternate military service to include monetary contributions as a substitute for personal active service for men of age 27 who have not served in military service”.

In relation to this provision, Parliament adopted “Conditions for the allowance of substitution payment for an alternate form of military service”, “Network for defining the amount of substitution payment of an alternate form of military service” by resolution No. 33 issued on 30 April 2009, and the Government adopted “Procedures on alternate form of military service” by resolution No. 49 in 2008.

The amount of substitution payment for an alternate form of military service is annually renewed by the Cabinet in correlation with the average annual costs for the military personnel.

The military recruitment bureau lists the grounds for a substitution payment as an alternate form of military service or for the exemption from payment based on testimonials from the soum, khoroo Governor and from employers, as well as birth certificates, identification cards, marital registrations, social insurance cards, and medical examinations.

The bureau then submits its recommendations to the Military Staff of the provinces and districts. The Military Staff of the provinces and districts review the rationale and recommendations and submit their conclusion to the province district Governor. The final decision will be made by the Governor. A citizen who serves an alternate form of military service through the substitution payment must attend a training course of 2nd grade military reserve duty as stipulated in the *Law on Military Mobilization*.

## **Conclusion**

This chapter of the 12<sup>th</sup> report of the Commission highlights the status of the Government's implementation of recommendations by the UN human rights treaty bodies' based on information received from the relevant ministries and agencies<sup>66</sup>.

The Government of Mongolia has adopted the "Procedure for preparing a national report on the implementation of the international treaties to which Mongolia is a party" by resolution No. 362 in 2009. According to the procedure, Ministries and Government agencies are responsible for implementing international treaties. Unfortunately, national reports have poor quality caused by lack of effective coordination and communication among the Ministries and Government agencies.

When the UN treaty body committees and experts review and discuss a national report, they not only look within the frame of that specific treaty but they seek to know about the implementation process of the recommendations. The quality of reports to UN treaty bodies is negatively impacted by the lack of thought-out methodology and information provided by the officer responsible for preparing the report.

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<sup>66</sup> It applies to all the information except the information of the NHRCM

Moreover, the information and knowledge about the recommendations of the UN bodies is very poor as the recommendations are not officially translated and are not distributed among the general public. Thus, it is essential that a permanent mechanism is established with representatives from each Ministry and Agency to implement the recommendations as well as submit qualitative national reports prior to deadlines.

The UN treaty bodies as well as the UPR of the UN Human Rights Council do not focus on criticizing the countries but rather they review and evaluate the human rights situation of a country, address the issues, provide countries with necessary technical assistance for overcoming the challenges and problems that they face, strengthen the capacity of the countries to resolve the issues effectively, and provide opportunities for countries to share their best practices with each other.

Thus, it is necessary to implement the UN treaties and conventions, and to enhance reporting on the implementation to ensure implementation of the recommendations in an effective and efficient way.

## **PROPOSALS to the Parliament of Mongolia**

### **With regards to mining development impacts on human rights:**

1. Establish remedy mechanism, particularly in the event of a loss of life, and where psychological and physical damage has occurred due to mining activities. The rights to a remedy and the type of remedy, need to be clearly defined;
2. Strengthen the accountability mechanisms for those special license holders who failed to complete technical and environmental restoration work in extraction areas and breached the *Law on Mineral Resources*. Allow, and integrate feedback about the appropriateness of the reclamation process and outcomes by local residents, and allow public and civil society organizations to carry out independent monitoring;
3. License regulations needs to ensure that infrastructure problems, including railway and road issues, have been fully resolved to the satisfaction of local residents, prior to the exploitation of large scale mineral resources such as coal and iron ore. In particular, roads must have sufficient load-bearing capacity to allow mining trucks and all related transport to operate without damage to the surrounding environment;
4. Ratify the 176th International Labour Organization *Convention on Safety and Health in Mines* on creating safe work places for workers in the mining sector. The State should take measures to create a mechanism for citizens and workers in the mining sector to prevent injuries, accidents and diseases, improve the quality of and accessibility to medical treatments, improve citizens' knowledge of health issues, and provide necessary information to this end;

5. Ratify the *Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (the Aarhus Convention)* to ensure public access to information on the environment, public participation in decision-making and a remedy for violated rights. Create a domestic legal framework that allows meaningful and active participation of the Governors of the Province, the Soum (administrative unit of Province), the Citizen's Representative Khural, and the public;

**With regards to the rights of children:**

1. Ratify the *Third Optional Protocol to the United Nations Convention on the Rights of the Child*;
2. Carry out analysis of current legislation affecting children and make improvement in this regard;
3. Establish secondary schools in each region teaching both a national-standardized general curriculum along side religious studies in order to improve school enrolment for children;
4. Improve physical accessibility of schools and provide learning equipment and tools that meet the needs of children with disabilities. Establish new kindergartens, dormitories and secondary schools, vocational training centers nation-wide to meet the special needs of students with disabilities, and take effective measures to ensure quality education, social life, hygiene, and safety.
5. Create appropriate legal regulation to protect the rights and safety of child jockeys.

**With regards to the rights of LGBT people:**

1. Take effective measures to implement the recommendations related to the rights of gay, lesbian, bisexual, and transgender people ('LGBT') provided by the UN Human Rights Council, the

Committee against Torture, and the Human Rights Committee;

2. Take effective awareness-raising measures to encourage positive attitude among the general public with regards to LGBT people.

**With regards to the implementation of the recommendations of the UN treaty bodies:**

Create a mechanism for the Cabinet to hear and discuss on annual basis the implementation of recommendations given by the UN human rights bodies.



**RECOMMENDATIONS FROM INTERNATIONAL  
CONFERENCE “MINING AND HUMAN RIGHTS IN  
MONGOLIA”**

**10 - 11 October 2012, Ulaanbaatar, Mongolia**

The National Human Rights Commission of Mongolia organized an international conference entitled “Mining and Human Rights in Mongolia” on 10th and 11th of October 2012 in Ulaanbaatar, the capital of Mongolia, with support of the United Nations Development Programme, the Secretariat of Asia Pacific Forum of National Human Rights Institutions and the Swiss Agency for Development and Cooperation.

This international conference was attended by around 200 people including high level representatives of the state, regional and local administrative bodies, herders, artisanal miners, mining companies, civil society organizations, media, academics, Members of the Asia Pacific Forum of National Human Rights Institutions, representatives from Embassies, the UNDP, and the United Nations Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises.

Conference participants commend the progressive policy of the Government of Mongolia to develop responsible mining and to strengthen environmental protection. Participants recognize the important contribution mining makes to Mongolia but also recognize the many negative side effects mining can have, intended or unintended. Participants wish to ensure that economic and other benefits of mining are maximized and distributed to all Mongolians. At the same time, participants wish to ensure that negative impacts are minimized through

the implementation of effective laws and where human rights abuses by business have occurred, effective remedies are available and accessible.

Conference participants point out that human rights in Mongolia are being violated due to the lack of a human rights approach to mining policies and practice; the current legal environment and the lack of effective regulations. Participants further point out that the lack of a human rights approach is compounded by poor implementation of existing laws and regulations and a complete lack of coherence between relevant departments.

Participants commend the United Nations Guiding Principles on Business and Human Rights (Guiding Principles) and call on all sectors of society: the state, business and civil society to play their respective roles in implementing the Guiding Principles.

In order to protect the Mongolian people, participants unanimously stressed the urgent need for the state to further develop and implement policies and laws to regulate the mining sector in that give effect to provisions from all relevant UN Treaties, applicable industry codes as well as the Guiding Principles, and, ensuring consistent implementation.

The following recommendations are based on comments from conference participants highlighting the importance of the cooperation of all parties in developing responsible mining policies and practices based on a human rights approach.

## **TO THE PARLIAMENT OF MONGOLIA:**

1. Ratify the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (the Aarhus Convention) to ensure public access to information on the environment, public participation in decision-making and to remedy already violated rights. Ratify the 176th Convention on “Safety and Health in Mines” of the International Labour Organization on creating safe work places for workers in the mining sector respectively;
2. Prohibit the use of pastureland for mining activities - unless it is for strategically important deposits and revise the current practices of mining companies on pastureland resulting in enforceable and effective legislation;
3. Create a domestic legal framework that allows meaningful and active participation of the Governors of the Province, the Soum (administrative unit of Province), the Citizen’s Representative Khural, and the public;
4. Create enforceable regulation to ensure compliance of mining companies’ technical and environmental restoration work in extraction areas to repair holes, channels, dikes, stockpiles and soil erosion – as per their obligations. Allow, and integrate, feedback about the appropriateness of the reclamation process and outcomes by local residents through a participatory process. Failure to comply with these obligations shall incur serious legal consequences, including substantial fines, withdrawal of existing licenses, non-issuance of future mining licenses to the offending company and independent monitoring by qualified members of the public and civil society organizations;
5. Licensing regulation needs to ensure that infrastructure issues, including railway and roads, have been fully resolved to the satisfaction of local residents prior to the exploitation of large

scale mineral resources such as coal and iron ore. In particular the sufficient load-bearing capacity of roads to allow mining trucks and all related transport without damage to the surrounding environment.;

6. Create and enforce law that prohibits current the illegal practice of subleasing of mining areas and the transfer of license of mines to others because it causes damages without accountability and leads to disorganized and illegal artisanal mining, lack of monitoring of extractive operations, tax evasions, and avoidance of responsibilities to carry out environmental rehabilitation;
7. Protect the right of artisanal miners to run legal business activities and to charge reasonable levels of tax established in consultation with the artisanal miners and local authorities;
8. Change the current clause in the Law on Mineral Resources that allows license holders to keep public interest information confidential including reports of exploration work, information with respect to mines operations and feasibility studies (technical and economic) prepared by the license holder during the valid period of license;
9. Strengthen accountability mechanisms for damage caused to the environment due to mining operations;
10. Create the required mechanisms for citizens, civil society and other interested parties to claim for damages to the environment and Mongolian citizens caused by mining activities, for example to lodge public interest claims in courts and tribunals;
11. Legally protect human rights defenders;
12. To ensure the right of access to clean drinking water through taking areas of the water sources - which provide 70% of Mongolia's surface water - and underground fresh water

resources under special state protection and, through the accurate assessment of existing water resources. To legislate for prudent water management including the use of available ‘surplus’ water in new industrial projects.

Regulate compulsory and transparent reporting of the actual expected water usage during the exploration process and the ongoing water usage by mining companies and other relevant organizations at regular intervals. Monitor the reporting process and assess if the water usage is within acceptable and agreed to boundaries.

13. Hold mining license holders accountable for human rights abuses including penalties for damages and other related expenses. Where a case for damages is established and a license holder is unable to comply, the state shall pay compensation for the damage directly to the affected parties and recover the costs from the license holder at a later stage;

In particular, in the event of loss of life, and where psychological and physical damage have occurred due to mining activities, the rights to a remedy and the type of remedy, need to be clearly defined;

14. Assign a local representative of the National Human Rights Commission of Mongolia to investigate and resolve human rights violations and complaints promptly in local areas. Ensure the efficient implementation of one of the mandates of the NHRCM: to advance public knowledge and awareness of human rights;
15. Establish a mechanism, composed of representatives of local administrative bodies, mining companies, civil society and other relevant organizations charged with resolving conflicts and complaints that have occurred during mining activities - independently and promptly. The process to establish this mechanism has to be transparent to ensure its credibility;

## **TO GOVERNMENT OF MONGOLIA:**

16. Implement the “Convention Concerning the Protection of the World Cultural and Natural Heritage”, the “Convention for the Safeguarding of Intangible Cultural Heritage” and the “Convention on the Protection and Promotion of the Diversity of Cultural Expressions” all of which Mongolia has ratified;
17. Join the “Voluntary Principles on Security and Human Rights” which were established through a multi-stakeholder dialogue, including the UK Foreign Office, the US State Department, mining companies and leading NGOs;
18. Immediately close down Tsagaan Khad coal-transportation terminal near the Gashuun Sukhait Border Port (Umnugobi Province) and pass a resolution that prohibits building and operating similar places;
19. Strictly implement laws and regulations that protect rivers and lakes. Adopt standards to
  - a. ensure preservation of the water quality in mining sites and the surrounding areas,
  - b. prevent contamination,
  - c. ensure economical use of water, including fixing of leaks.

Set fair prices for water usage in the mining industry and support the development of technological solutions for water recycling and their implementation;

20. Strictly implement Clause 48.10, Minerals Law of Mongolia to publicly disclose the annual product sales of license holders, the annual tax and any other payments to the state and local governments;
21. Improve cooperation and coherence between ministries, agencies and state administrative bodies dealing with business and revise

rules that hinder business unnecessarily;

22. Allocate sufficient resources to train and educate the general public and all levels of government about relevant international treaties and national laws;
23. Provide sufficient resources to and build the capacity of government agency personnel responsible for inspecting and monitoring the impact of mining operations. Provide them with all necessary equipment, intensify research work in this field and ensure their independence;
24. Create a comprehensive monitoring system by responsible departments covering all activities related to radioactive and toxic chemical substances including registration, transportation, usage, storage, demolition, export permits, and border control and transfers;
25. Suspend issuing mineral resource' licenses for a specified period of time and to reconsider existing permissions for exploitation of certain deposit areas, based on their economic and environmental impact assessments;
26. Conduct impact assessments (IA) including health, environment, economic benefits and infrastructure of mining operations around cities and villages and other relevant areas according to international standards. Consider the recommendations of the IA, disseminate the results to affected local communities in an understandable way, plan further measures based on the recommendations of the IA by ensuring wide participation of local citizens;
27. Revise existing regulations and relevant rules that hinder artisanal mining of mineral resources and create fair regulation for artisanal miners including their registration, provision of social welfare and fair distribution and sale of products. Assign

a special officer in charge of mining in the labour division of the relevant Province depending on the area and number of mining fields;

28. Provide informal artisanal miners with support to become responsible artisanal miners who run their business activities legally and professionally;
29. Take social issues of local areas with mining activities into consideration and increase the local budget to ensure access to public services;
30. Hold local self-governing and administrative bodies, officials accountable to perform their duties in regard to monitoring mining license holder with their legal obligations;
31. Request the United Nations Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises to analyze the fact that international arbitration decisions hold developing countries responsible for changing the stability agreements which were signed between the Government and Business without consultation with their citizens and contain clauses which could harm the interest of the citizens and to define the appropriate solution to this issue;

**TO LOCAL ADMINISTRATIVE AND SELF GOVERNING BODIES:**

32. Actively protect and respect citizens' rights and freedoms and ensure environmental protection in line with international treaties, national laws and legislation. Intensively raise local residents' awareness of human rights and engagement with the local government and businesses;
33. Include the objectives and key performance measures from the long-term province and soum development plan and the environmental reclamation plan in cooperation agreements with mining companies and display these publicly;

34. Build tripartite consensus to resolve conflicts related to mining activities. Provide local citizens with the opportunity to independently and transparently select their own civil society representative;
35. Cooperate with the state, civil society organizations, citizens and other relevant organizations to secure compensation payments for damages caused by mining activities. Damages must include but are not limited to livestock deaths, decreased livestock productivity and negative impacts on the livelihood of herders.

### **TO MINING BUSINESSES AND ENTITIES:**

36. In order to ensure Mongolian citizens' right to live in a healthy and safe environment free from environmental pollution and ecological imbalance the following measures should be taken immediately:
  - a. Ensure responsible use of water and prevent pollution. Where unintended pollution of water occurred, do everything possible to minimize the negative impact alert all concerned immediately and repair the pollution;
  - b. Prevent soil erosion and, where erosion occurred, repair the damage to its previous state immediately;
  - c. Organize regular preventive measures to protect herders and livestock from accidents on and around mining sites in cooperation with herders, soum (administrative unit) and bag (administrative unit of soum) administrative bodies;
37. Engage with the “Voluntary Principles on Security and Human Rights”, established through a multi-stakeholder dialogue, and which include the UK Foreign Office, the US State Department, multi-national mining companies and leading NGOs;
38. Implement the corporate responsibility to respect human rights across all stages of business activities. ;

39. As part of core business strategy, conduct ‘human rights impact assessments’ regularly for each individual project and programme;
40. Establish a human rights policy based on international best practice and resource its implementation;
41. Establish an effective grievance mechanism to deal with human rights issues;
42. Operate transparently and inform the local community about relevant business information in an understandable way;
43. In the event human rights have been violated, accept responsibility and immediately remedy the violation in accordance with national and international law as well as in line with best practice;
44. Respect the rights and traditions of herders through consulting with them and through learning about their culture and traditions. In particular, prevent mining activities to negatively impact on their livelihood.

#### **TO CIVIL SOCIETY ORGANIZATIONS:**

45. Continue to collaborate with relevant organisations in regard to projects and issues to extend your influence, in particular with the National Human Rights Commission of Mongolia and other human rights focused organisations;
46. Raise awareness among the general public about mining and environmental issues and collaborate with state and international organizations in this regard;
47. Bring specific violations of human rights and freedom in the mining sector to the attention of relevant organizations - including the National Human Rights Commission of Mongolia - and to the attention of the general public;

48. Intensify advocacy activities to institutionalize equal participation of all affected parties in decision-making processes related to mining through cooperation with other organizations;
49. Assist with the process of appointing the citizen representative in charge of monitoring the “license holder and environmental reclamation process” stated in Clause 42.3 of the Minerals Law of Mongolia, and provide the ‘citizen representative’ with an opportunity to inspect the operations of mining companies and the reclamation process.

**THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA IS  
IN CHARGE OF MONITORING OF IMPLEMENTATION OF ABOVE  
RECOMMENDATIONS AND INCLUDING/REFLECTING PRESENTATIONS  
AND COMMENTS OF REPRESENTATIVES OF STATE, INTERNATIONAL  
AND NATIONAL CIVIL SOCIETY ORGANIZATIONS AND CITIZENS INTO  
RESOLUTION/DECISION OF RELEVANT STATE ORGANIZATIONS.**

National Human Rights Commission of Mongolia  
United Nations Development Programme in Mongolia  
Secretariat of the Asia Pacific Forum of National Human Rights Institutions  
United Nations Working Group on the Issue of Human Rights and  
Transnational Corporations and  
Other Business Enterprises  
United Nations Office of the High Commissioner for Human Rights  
Commission on Human Rights of Phillipines

Ministry of Mining  
Ministry of Environment and Green Development  
Ministry of Labour  
General Authority for Specialized Inspection  
Governor of Dundgovi Province

Embassy of the Switzerland  
Swiss Agency for Development and Cooperation  
Rio Tinto Group  
Momentum International Partnerships  
OXFAM Australia  
Amnesty International – International Secretariat  
Confederation of Mongolian Trade Unions  
Mongolian Environmental Civil Council NGO  
Steps without Borders NGO

## Annex II



### **NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA**

15140 Government Building no. XI, Liberty Square,  
Chingeltei district, Ulaanbaatar, MONGOLIA  
Tel: (976-51) 26-29-15, 26-65-06, Fax: (976-11) 32-02-84,  
E-mail: info@mn-nhrc.org; http://www.mn-nhrc.org

Date 14 January 2013

Ref. No. 1/01

Dear Mr. Gantumur L,  
Minister of Education and Science  
Mr. Sanjmyatav D, Minister of Labour  
Mr. Erdene S, Minister of Population  
Development and Social Protection  
Ms. Udval N, Minister of Health

### **Demand of the National Human Rights Commission of Mongolia to the Government of Mongolia**

Subject: Demand of the Commission to the Government

On the 27th and 28th November 2012, the National Human Rights Commission of Mongolia undertook monitoring activities and inquiries at a number of schools for children with disabilities, including special schools No.25, 29, 116 of Sukhbaatar District, school No.63 of Khan-Uul District, school No.70 of Bayangol District, and school No.55 of Bayanzurkh District of Ulaanbaatar City. The Commission undertake its investigations in accordance with article 18.2 of the Law on the National Human Rights Commission of Mongolia in order to assess the implementation of the rights of children with disabilities', including their right to education, right to health, right to be safe, right to develop and participate, and right to be protected, all of which are guaranteed under the Constitution, Convention on the Rights of Child, Convention on the Rights of People with Disabilities and other related instruments.

Based on the findings of the monitoring activities and inquiries, the Commission concludes that the State is not fulfilling its obligation to respect, protect and ensure human rights as required under international law. Therefore the Commission is forwarding the following demand to the relevant Ministries of the Government exercising the Commission's

power in article 19.2 of the Law on the National Human Rights Commission of Mongolia:

Undertake an effective measures to ensure the buildings, equipments and technology facilities of the educational institutions meet the labor requirements for teachers, workers, students and meet the special needs of the disabled students, as well as conditions of hygiene and safety, as stipulated in article 42.1 of the Law on Education;

The Government must fully comply with the provisions of the Law on Education when renewing variable costs for special schools which requires for taking into account the needs of the students and the differences of educational institutions;

Maintain policy and programs to train teachers who work with children with disabilities in special schools, preferably in developed countries or locally at the Medical Science University and Teacher Training University of Mongolia;

Expand the schools' human resources by employing assistant teachers who can offer full time support for children with disabilities, specifically for those who need additional assistance with basic tasks such as getting dressed, feeding, using the toilet, playing, learning, travelling to and from school and participating in social activities etc.;

Ensure human resources include psychologists at every special schools, given that children with disabilities are more vulnerable to developing depression and may need additional social/psychological support;

Effectively define and budget the costs of rehabilitation services, learning equipment and facilities, and other necessary resources, including transport. Each special school must be provided with transportation that meets special needs and requirements of students with disabilities.

Undertake an expert assessment of school buildings and facilities and ensure repairs and building renewals are carried out by relevant specialized organizations and provide new sewerage and heating systems;

Improve safety of school surroundings where children with disabilities study. This includes walk roads and premises.

Ensure all classes in special schools receive a meal through the “Afternoon meal” programme, given the importance providing students with disabilities with a healthy meal to ensure their good health ability;

The Minister of Education and Science should revise and adopt a curriculum and programme that meet the requirements and special needs, and ensuring the publication and distribution of quality textbooks which meet the accessibility requirements and special needs of students with disabilities;

Ensure there are appropriate medical facilities and doctors’ for first aid and emergency treatment at special schools, adequate and quality medical equipment and facilities appropriate for students’ individual medical history and the special needs of students with disabilities, increase the human resources of special schools including doctors and nurses, ensure medical service are in compliance with international standards, and provide a budget to cover these additional costs;

Depending on the type of disabilities in a school, reduce the number of students in each class in order to increase the quality of education, and update the standards for class sizes;

Develop a methodology, criteria, and guidelines for research on children with disabilities, carry out baseline research on children with disabilities at national level, and take effective measures to ensure children who are not currently in schools are enrolled in a school appropriate for their needs;

Improve the social and health welfare of teachers and staff working at special schools;

Carry out an expert assessment on occupational diseases among teachers and staff and determine whether they are working in irregular work conditions, and consider the possibility of increasing their retirement pension under beneficial conditions;

Establishing kindergartens, secondary schools with dormitories and complex vocational training centers at the national level and ensure availability of vocational training;

We urge you to take specific measures in response to these demands in accordance with article 19.4 of the Law on the National Human Rights Commission of Mongolia and provide a response on the measures implemented with regards to the demand in writing within the date stipulated in the Act.

We ask that the relevant Ministries coordinate and cooperate with each other in an effective way in order to ensure and protect the rights of children who are studying in special schools by amending and adopting laws, rules, procedures, standards and norms.

Chief Commissioner (signature here) ByambadorjJamsran  
Commissioner (signature here) DashdorjJadamba  
Commissioner (signature here) OyunchimegPurev

**REPORTING STATUS OF THE MONGOLIAN GOVERNMENT ON THE IMPLEMENTATION OF  
INTERNATIONAL HUMAN RIGHTS TREATIES**

<b>N<sup>o</sup></b>	<b>Treaty</b>	<b>Reporting procedure</b>	<b>Submitted State report</b>	<b>Date of submission</b>	<b>Direct request or Pending reports</b>	<b>Report due date</b>	<b>Late reporting</b>
1	International Covenant on Civil and Political Rights	(a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests.	1 <sup>st</sup> Report	20 /12/ 1978	6th Report	01/04/2015	
			2 <sup>nd</sup> Report	02 /08/ 1985			
			3 <sup>rd</sup> Report	29 /11/ 1990			
			4 <sup>th</sup> Report	20 /04/ 1998			
			5 <sup>th</sup> Report	14 /09/ 2009			
2	International Covenant on Economic, Social and Cultural Rights	(a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter every five years and further whenever the Committee so requests.	1 <sup>st</sup> Report	19 /10/ 1977 06/12/ 1979 27/10/ 1981	5th Report	2015	
			2 <sup>nd</sup> Report	25 /10/ 1983 27 /08/ 1986			
			3 <sup>rd</sup> Report	21 /04/ 1998			
			4 <sup>th</sup> Report	12 /2011			

3	Convention on the Elimination of All Forms of Discrimination Against Women	(a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests.	1 <sup>st</sup> Report  2 <sup>nd</sup> Report 3 <sup>rd</sup> Report 3,4 <sup>th</sup> Reports 5,6,7 <sup>th</sup> Reports	18 /11/ 1983  17 /03/ 1987 08 /12/ 1998 08 /12/ 1998 12 /04/ 2007	8-9th Reports	03/09/2014	
4	International Convention on the Elimination of All Forms of Racial Discrimination	(a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every two years and further whenever the Committee so requests.	1 <sup>st</sup> Report  2 <sup>nd</sup> Report 3 <sup>rd</sup> Report 4 <sup>th</sup> Report 5 <sup>th</sup> Report 6 <sup>th</sup> Report 7 <sup>th</sup> Report 8 <sup>th</sup> Report 9 <sup>th</sup> Report 10 <sup>th</sup> Report 11, 12, 13, 14, 15 <sup>th</sup> Reports 16, 17, 18 <sup>th</sup> Reports	30 /07/ 1971  07 /08/ 1972 09 /04/ 1975 05 /05/1978 05 /11/ 1979 22 /06/ 1981 12 /04/ 1982 26 /12/ 1984 12 /02/ 1987 18 /10/ 1988 20 /04/ 1998	19-20-21	09/05/2010	2 years 11 months

5	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	(a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests.	1 <sup>st</sup> Report	23 /09/ 2009	2 <sup>nd</sup> Report	19/11/2014	
6	Convention on the Rights of the Child	(a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter at least every five years and further whenever the Committee so requests.	1 <sup>st</sup> Report	20 /12/ 1994	5 <sup>th</sup> Report	20/10/2014	
			2 <sup>nd</sup> Report	06 /05/ 2003			
			3, 4 <sup>th</sup> Reports	31 /03/ 2008			
7	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	(a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter at least every five years and further whenever the Committee so requests.	1 <sup>st</sup> Report	31/03/2008	2 <sup>nd</sup> Report	31/03/2013	
8	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	(a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter at least every five years and further whenever the Committee so requests.	1 <sup>st</sup> Report	31 /03/ 2008	2 <sup>nd</sup> Report	31/03/2013	
9	Convention of the Rights of Persons with Disabilities	(a) Within two years after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests.	1 <sup>st</sup> Report	10 /02/ 2012 Late 8 months	2 <sup>nd</sup> Report	2017-2018	

10	Forced Labour Convention (ILO Convention No 29)	Each of Member States shall submit report every two years.	Periodic Report	2013	Periodic Report	2015	
11	Freedom of Association and Protection of the Right to Organize Convention (ILO Convention No 87)	Each of Member States shall submit report every two years.	Periodic Report	2012	Periodic Report	2014	
12	Right to Organize and Collective Bargaining Convention (ILO Convention No 98)	Each of Member States shall submit report every two years.	Periodic Report	2010 2012	Periodic Report	2014	
13	Equal Remuneration Convention (ILO Convention No 100)	Each of Member States shall submit report every two years	Periodic Report	2011	Periodic Report	01/09/2013	
14	Maternity Protection Convention (ILO Convention No 103)	Each of Member States shall submit report every five years.	Periodic Report	2008	Periodic Report	01/09/2013	
15	Abolition of Forced Labour Convention (ILO Convention No 105)	Each of Member States shall submit report every two years.	Periodic Report	2013	Periodic Report	2015	
16	Discrimination (Employment and Occupation) Convention (ILO Convention No 111)	Each of Member States shall submit report every two years.	Periodic Report	2011	Periodic Report	01/09/2013	
17	Employment Policy Convention (ILO Convention No 122)	Each of Member States shall submit report every two years.	Periodic Report	2011	Periodic Report	01/09/2013	

18	Minimum Age (Underground Work) Convention (ILO Convention No 123)	Each of Member States shall submit report every five years.	Periodic Report	2008	Periodic Report	2013	
19	Workers' Representatives Convention (ILO Convention No 135)	Each of Member States shall submit report every five years.	-	-	-	-	
20	Minimum Age Convention (ILO Convention No 138)	Each of Member States shall submit report every two years.	Periodic Report	2008	Periodic Report	2010	3 years
21	Tripartite Consultation (International Labour Standards) Convention (ILO Convention No 144)	Each of Member States shall submit report every two years.	Periodic Report	2010.11	Periodic Report	2012	1 year
22	Occupational Safety and Health Convention (ILO Convention No 155)	Each of Member States shall submit report every five years.	Periodic Report	2009	Periodic Report	2014	
23	Vocational Rehabilitation and Employment (Disabled Persons) Convention (ILO Convention No 159)	Each of Member States shall submit report every five years.	Periodic Report	2004.09	Periodic Report	2009	4 years
24	Worst Forms of Child Labour Convention (ILO Convention No 182)	Each of Member States shall submit report every two years.	Periodic Report	2008	Periodic Report	2010	2 years

