

## **Mongolia – NGO Forum joint Submission on Human Rights Status to OHCHR for UPR on November 23, 2010**

1. In preparation to the upcoming Universal Periodic Review of the status of human rights in Mongolia by the UN Human Rights Council a training-consultation was held among Mongolian NGO/CSOs<sup>1</sup>. This consultation established a NGO Forum (the Forum) to coordinate preparation of submissions, organization of advocacy activities and select most pressing human rights issues for submissions (joint and individual) and created working groups for drafting of each of the submissions. (attached Annex of Forum member organizations)
2. Draft submissions have been circulated to all participating organizations, discussed twice by the Forum and were approved upon discussion by all parties involved. In addition, on February 26, 2010 the UN Resident Representative Office has held a tri-partite (government working group on preparation of a UPR report, UN agencies and the Forum) meeting. Forum working groups made presentation on the joint and thematic group activities and issues to be covered in these submissions.
3. The joint submission was drafted by the Centre for Human Rights and Development (CHRD) and MONFEMNET - the network of Mongolian women's organizations basing on topics selected by and in consultation with the members of the Forum. A final draft of the joint submission was circulated among Forum members to ensure that comments and inputs solicited are included in this document.
4. Preparation of thematic submissions and their discussion workshops were funded by the Open Society Forum. Cooperation with National Report Working Group of the Government amounts to support to the Forum in form of free of charge use of a conference hall for the Forum's first discussion meeting, provided information to thematic groups and soliciting information on what the national report should in the opinion of CSOs include in reporting on human rights. Ministry of Foreign affairs quoted a high rental for the second meeting which forced us to seek other accommodation for Forum's second round of discussions<sup>2</sup>.

### **Human Rights Legal Framework and Implementation**

5. International commitments: Mongolia has ratified key human rights convention of the UN, their optional protocols<sup>3</sup> and adopted many documents relating to the human right to development. However, timely reporting on the status of implementation, taking action on recommendations of convention bodies has been inadequate. Furthermore, there's been a

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<sup>1</sup>With the technical assistance of Asia-Forum, a regional NGO, Center for Human Rights and Development and Globe International have carried out a training of Mongolian NGO/CSOs on January 10-12, 2010 in Ulaanbaatar. The workshop was attended by over 40 CSOs engaged in human rights protection activities.

<sup>2</sup> The first NGO Forum discussion was held at the Foreign Ministry conference hall. For the second discussion meeting the Ministry demanded a rental of \$120 per hour leaving us to look for other premises.

<sup>3</sup> Mongolia has not joined the UN Convention on the Right of Migrant Workers and their Families, as well as the Optional Protocol of ICESCR.

case of ignoring a request of the UN Special Rapporteur on Torture.<sup>4</sup> Article 16.14 of the Constitution of Mongolia stipulates that a citizen has the **right to appeal to the Court** to protect his/her right if he/she considers that the rights or freedoms as spelt out by the Mongolian law or an international treaty have been violated. However, due to convention provisions not being incorporated into national laws and lack of knowledge of human right of judicial personnel makes it impossible to exercise of this right<sup>5</sup>.

6. Constitutional commitments: Article 16.18 of the Constitution stipulates a broad range of civil, political, economic, social and cultural rights to be enjoyed by the citizens and as is sited above offered the **right to appeal to courts** for violation of any of these rights.
7. While it appears as though a Mongolian citizen enjoys a broad range of rights under the international treaties and conventions ratified by Mongolia and the Constitution in reality these are not implemented. The following are the reasons: First, international convention provisions as well as Constitutional provisions are not fully incorporated or missed altogether in relevant national laws thus creating lack of legal framework for protecting violated rights by the judiciary. Second, because the Constitutional Court (Tsets) is not mandated to act upon violation of individual rights and freedoms guaranteed by the Constitution citizens do not have the right to appeal to Tsets for remedy<sup>6</sup>.
8. Human rights guarantees in other laws: There exist many obstacles to protection of human rights through legal guarantees. Many laws and mechanisms essential to protection of human rights and freedoms do not exist to date. In particular, law on protection of victims and witnesses; protection of human rights defenders; provisions on ensuring citizen's right to participation; law on combating gender-based violence; law on ensuring independence of publishers, law accountability of parliament members and MP code of conduct<sup>7</sup>; ensuring civil society's right to participation in public interest litigation and monitoring compliance provisions and laws do not exist to date.<sup>8</sup>
9. Furthermore there are laws that have **adverse effect on human rights**. In particular, the Law on State Classified Information<sup>9</sup>, Law on Public Finance and Administration, law on courts, law on registration of NGOs, provisions on taxation and social insurance of NGOs; law on submitting a draft parliamentary resolution; and the package of election laws<sup>10</sup>; law

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<sup>4</sup> UN Special Rapporteur Manfred Nowak during his visit to Mongolia in June 2005 requested and was denied access to information on death penalties and visit to prisons, interviews with death row prisoners. Mongolia has not taken measures to implement his recommendation nor has reported on any activities in this direction.

<sup>5</sup> The following causes and pretexts are given by judges: lack of certified translation of international conventions, or translation not being published in the State Information Bulletin;

<sup>6</sup> Article 64.1 of the Constitution reads "...the Constitutional Court shall have the full authority to oversee implementation of the Constitution, deliver conclusion on violations of its provisions, resolve disputes and debates and serve as guarantor of protection of the Constitution". In reality Tsets has no role or significance in protecting individual human rights.

<sup>7</sup> It's been a few years since SGH members receive budgets to spend in their constituencies. It started with MNT10 mln in ...jumping to 1 bln MNT (appx. \$690 Mln) in 2010. Unconstitutional amendment of the Constitution to allow MPs to serve as Cabinet members leading to loss of the principle of check and balance permitting this unprecedented show of lack of ethical norms within Government and political culture in general.

<sup>8</sup> Content of paragraphs 8,9, 10 have been defined by the NGO Forum.

<sup>9</sup> Law on State Classified Information restricts access to information possessed by public authorities. It also can interfere in business sphere through regulating de-classification or access to information for cases when investors request to classify technical, economic feasibility studies, which includes reports on economic, social and environmental impact assessments.

<sup>10</sup> To date no measures have been taken to resolve the issue of women candidates' quota, rights of the electorate, voter education, public monitoring, composition of election committees, and transparency of their activities.

on political parties and administrative procedures and guidance produced in very arbitrary manner.

10. In addition, **inadequate implementation** results in violation of human rights and freedoms. These include law on public radio and television, law combating domestic violence, provisions of the Criminal Code on crimes of human trafficking, law procedures of administrative court hearings and the Law on Public Service. Thus lack of laws essential to guaranteeing human rights protection, existence of laws not compliant with human rights standards and their inadequate implementation are root causes for serious violations of human rights.

### **National Human Rights Institutions and Mechanisms**

11. Public institutions and mechanisms responsible for human rights in Mongolia consist of the Parliamentary Subcommittee on Human Rights (PSHR), National Human Rights Commissions (NHRC), Committee for Implementation of the National Human Rights Action Program (NHRAP) its working unit and branches located in the capital city and aimag centers.
12. PSHR is responsible for oversight and monitoring implementation of human rights at the Parliament (SGH) level. This Subcommittee has carried out a hearing on human rights issues related to the July 1 cases. Before and after this hearing there has been no visible activity related to this or other cases of human rights violations. As a general observation, the SGH does not review adopted laws, resolutions, development documents and other decisions for compliance with human rights standards. There is no political will nor there exist capacity for such action.
13. The NHRC was established in 2001. NHRC report to SGH on annual basis on the status of human rights. As result of this NHRC's capacity and knowledge to carry out human rights research and training is improving. However, it has not been able to do anything substantial in terms of protecting human rights<sup>11</sup>. This deficiency is rooted **in the law** that defines its roles and responsibilities and regulates the process of representation, selection and appointments, which are weak or do not comply with international norms and standards<sup>12</sup> and do not provide for its independence<sup>13</sup>.
14. NHRAP was developed and approved with broad participation of the public and there is National Committee headed by the prime minister, its working unit and branches operating in all provinces. However, due to weak implementation and not utilizing oversight mechanisms built in the Program it is not producing much effect. Reasons for this weakness lie in the fact that the Program is not viewed as important with insufficient budget allotted for its implementation, it's activities spread out lacking coordination of multiple public, NGO, private sector, development organization stakeholders and generally left to be covered by donor agencies' funding and activities carried out by civil society organizations.

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<sup>11</sup> After the 2008 post-election riots and state of emergency it has become apparent to the public that NHRC has no capacity and independence to take effective measures to protect human rights.

<sup>12</sup> The Paris Principles set standards for national human rights institutions to be followed by states.

<sup>13</sup> Centre for Human Rights and Development has reviewed during 2006-2008 the Law on NHRC for its conformity with the Paris Principles, issuing a series of 3 report

15. Local public administrations are not attaching any attention to human rights and freedoms on their territories. The State is responsible for providing for, protecting, implementing and supporting human rights as prescribed by international law, the Constitution but does not review its activities in relation to impact on human rights, while there is no law provision that assign local governments responsibility to protect and provide for human rights and freedoms. This is the main reason why human rights-based approach is not penetrating government policy and planning, monitoring and evaluation activities.
16. In addition, public administration agencies in monitoring conformity with law of local administration at any level continue to leave out human rights monitoring. Monitoring focuses only on conformity of public officials' activities with the implementation of duties prescribed by law without looking at whether the public services are designed to ensure human rights and freedoms<sup>14</sup>. This is one reason why the State's obligation to respect, protect and implement human rights taken before the international and national community are not being fulfilled. This is also a result of not doing much about improving the knowledge and education of public officials in human rights issues.
17. The judiciary as "the guarantor of human rights and freedoms and rule of law"<sup>15</sup> is an important institution and mechanism of protection of human rights. The judiciary's obligation is to protect, remedy human rights violation and restore justice in cases when rule of law fails and human rights are violated. Unfortunately Mongolian judiciary's independence is not secured and therefore it isn't able to fulfill its obligation to be the guarantor of human rights and rule of law. Cases of July 1 victims, citizens' lawsuits attempting to protect public use land, water and pasture land contamination cases provide ample evidence for this conclusion. Loss of judicial independence is connected to its organizational structure and system and judicial ethics. It is especially important to address the issue of judicial ethics<sup>16</sup>. Conclusions have been made that in addition to losing independence due to the pressure of the system or authorities, judges display unethical and corrupt behavior. Therefore in reforming the judiciary it is important to address the system of selection, nomination and enforcement of ethics norms in addition to structural changes.
18. Human rights civil society organizations (CSOs) are integral part of national human rights protection mechanisms. CSOs are actively working to monitor, restore human rights violation and engage in policy advocacy aimed at changing legal environment. However, they are lacking enabling legal, financial and information environment conducive to their work. There are no formal policies to support their work. Due to this CSOs are engaged in implementation of short-term projects funded by donors<sup>17</sup>, lacking the essential means to engage in long-term sustainable activities to protect and advocate human rights. There is no condition for human rights organizations to form and operate in local communities. In

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<sup>14</sup> Erdenebat, Mechanism for Monitoring Implementation of the Law Combating Violence Against Women", Research Report, 2007, page 12.

<sup>15</sup> Law on Courts, Article 3.2

<sup>16</sup> CHRDR worked on 10 environmental litigation cases since 2005 where in 2 cases judges have violated their code of conduct. Complaint to the Judicial Ethics Committee on one case revealed inability of the Committee to hold judges accountable.

<sup>17</sup> Project funding available to CSOs does not cover core funds or administrative expenses making it impossible for CSOs plan their activities for longer than 2-3 years.

order to improve impacts of human rights organizations it is important to legislate their right to claim public interest and monitor implementation of laws with binding effect.

19. Human rights protection institutions and mechanisms established in Mongolia are not able to guarantee protection of human rights and freedoms.

### **Status of implementation of human rights**

20. In the past 10 years there has been serious backpedalling in democratic development of Mongolia, making it impossible for citizens to fully and equally exercise their **civil and political rights**, the right to democratic participation in running the state. In particular, the principle of balance of powers between judiciary, executive government and legislature established by the 1992 Constitution is lost through loss of judicial independence, overlapping of roles and responsibilities of executive government and legislature, members of parliament became cabinet ministers, members of parliament have begun enjoying the right to approve large sums from the central budget for their own projects. Furthermore, universal, free and fair principle of elections is lost through election laws openly restricting opportunities for small party members and independent candidates; rampant election fraud swaying choice of voters, resulting in parliament composition not reflecting the interests and choice of electorate. Weak internal democracy, accountability and respect for principles of equality and human rights within political parties reflect their inability to represent interests of the people, resulting in closed opportunity for women, poor population, herders, farmers and minorities to be represented in decision-making bodies. Transparency of public institutions is weak as ever closing other direct and indirect opportunities to participate in government and decision-making processes.
21. **Poverty** has become a serious cause and consequence of human rights violations. Millennium Development Goals (MDGs) set a target of halving poverty to reach 18% by 2015. Unfortunately the poverty rate continues to stay at 35,2% indicating that every third person lives in poverty.<sup>18</sup> The gap between incomes of the population is growing further apart adding to the number of urban poor, homeless and working children, females headed households and with more indicators of poverty coming into existence<sup>19</sup>. Herders are losing animals from drought and winter disaster and fast growing mining sector is pushing them out of land by taking over water and pasture resources leading to intensified rural-to-urban migration adding to the number of poor urban households barely surviving on small donations and welfare benefits.<sup>20</sup>
22. While poverty among unemployed is high (54%)<sup>21</sup> a big section of poor are made of “working poor”<sup>22</sup> evidencing the fact that labor compensation is inadequate bordering with slave labor. Level of unemployment is not diminishing due to jobs not being created where they are needed. Minimum wage<sup>23</sup> established by the State is revised periodically but is not enough to keep up with the inflation rate leading to these wages not being able

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<sup>18</sup> Household Socio-economic Survey, Core Tables, 2007-2008, NSO, WB, Ulaanbaatar, 2009, page 3

<sup>19</sup> Poverty Research and Employment Facilitation Project, UNDP, [www.undp.org](http://www.undp.org)

<sup>20</sup> In some aimags, in particular Western aimags poverty levels are much higher than that in urban areas reaching 51% rate. Mongolia Poverty Assessment, World Bank, 2006, page 20

<sup>21</sup> Household Socio-economic Survey, Core Tables, 2007-2008, NSO, WB, Ulaanbaatar, 2009, page 19

<sup>22</sup> Human Development Report, 2007, GoM, UNDP, page 16

<sup>23</sup> Minimum wage set by GoM is 108,000 MNT or \$75 per months has not been updated in the past two years.

to cover even most basic needs of the poor. Measure taken by the State in reaction to global food, energy and financial crises failed to bear any results, failing also to monitor compliance of the private sector with the Labor Law.

23. Violation of the right to decent housing is a direct outcome of poverty. Some 51% of total population, 60% of the capital city population resides in ger districts, which do not meet the basic standards safe and secure living environment, in heavy air pollution and complete lack of sanitary and security means<sup>24</sup>. State's "40,000 household housing" program aimed at addressing housing shortage has taken a long time to get started coinciding with increase in cost of housing and fall in purchasing capacity of the population. Citizens have no access to long-term low interest housing credit. The number of homeless reached 4,300 one third of them being children and youths, 44.4% of these living in the capital<sup>25</sup>.
24. While Government is taking hundreds millions in development credit and assistance aimed at reducing poverty<sup>26</sup> these measures are not achieving visible results. The reason behind this is seen in the lack of human centered approach and participation of especially poor people in the design and implementation of development projects and programs. Information related to development credit and assistance is not always available in the Mongolian language, not readily accessible making it difficult for people to participate in the implementation and monitoring of development projects and benefit from these in order to exercise their **right to development**. The State does not recognize poverty as violation of human right.
25. Due to lack of access to information and financing for monitoring corruption, unethical and illicit activities<sup>27</sup> among public officials by local civil society this area of monitoring is not developing. This allows assistance programs implemented at the local level go unwatched by the public and thus achieve little to no results. Anticorruption effort by citizens is limited to "informant" role and as such prolongs investigation of local corruption cases and diminishes results of such efforts.
26. Mongolia, commendably, was among the first few countries which signed the Optional Protocol to the ICESCR but has failed to ratify it to date. 8 years have passed since the due date of its 4<sup>th</sup> ICESCR implementation status report. ECOSOC has in its conclusions and recommendations<sup>28</sup> regarding the 3<sup>rd</sup> report under #22 states "pay special attention to reduction of poverty", in #27 "disseminate recommendation of the Committee to as broad spectrum of citizens as possible" have not been sufficiently implemented.
27. **Environmental right** is being violated seriously because of pollution and disaster caused by mining. It has an immediate and direct adverse impact on the citizens' right to live in a safe and secure environment, protection from loss of ecological balance, right to preserve and transmit indigenous cultural traditions, right to water and decent standard of living,

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<sup>24</sup> <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/MONGOLIANMONGOLIANEXTN/0,,contentMDK:22484734~menuPK:475368~pagePK:2865066~piPK:2865079~theSitePK:475350,00.html>

<sup>25</sup> [http://www.nso.mn/mdg/eng\\_goals7\\_3.htm](http://www.nso.mn/mdg/eng_goals7_3.htm)

<sup>26</sup> "Sustainable Livelihood Project" (since 2006), 3<sup>rd</sup> crop sector support movement have been implemented since 2008. Mongolia ranks among the top 5 in per capita ODA funding receiving in 2008 ODA of \$246M alone, <http://www.oecd.org/dataoecd/23/4/1882335.gif/www.oecd.org/dac/stats>

<sup>27</sup> There no human rights CSOs which receive funding to finance core administrative costs.

<sup>28</sup> 2000.09.01, EC./12/1/Add.47

- freedom of choice of livelihood style, right to information and participation in decision-making, right to social welfare and services, right to development and right to redress.
28. **The right to safe environment, protection from environmental pollution and loss of ecological balance:** Since the approval of Gold Program the Government has pursued policy of attracting foreign direct investment into mining sector. This pursuit has resulted in uncontrolled issuance of mining and exploration licenses covering 30 орчим<sup>29</sup> of total land, including land under environmental protection, Ramsar and World Heritage sites.
  29. Due to lack of control over use and disposal of chemical and hazardous substances, illicit importation and storage have led pollution and contamination of 53,5 hectares of land in 120 units or 203,508 m<sup>3</sup> of soil with cyanide and mercury in Hongor soum in Darkhan-Uul aimag (province), Zaamar, Jargalant, Bornuur soums in Tuv, Mandal, Eruu in Selenge, Bayan-Ovoo and Bumbugur in Bayanhongor, Mandal-Ovoo, Khanbogd in South Gobi aimags<sup>30</sup>. These have a direct impact on the health of residents in these soums and claims for remedy and redress, demand to clean up land have not been met by Government<sup>31</sup> as traces of mercury continue to be detected on soil.
  30. **Right to preserve traditional culture.** Around 30% of Mongolia's population is made up of nomadic herders, who have lived nomadic style of life and culture on these lands from ancient times and are essentially **indigenous people**. Their lifestyle is most affected by mining as they are pushed out of their pasture, hay and camp lands directly or indirectly forced to leave due to contamination of water, air, soil and vegetation by mining dust, infrastructure and traffic. Nomads are losing nomadic herding business, lifestyle and land, deprived of their rights to preserve traditional culture.
  31. **Right land, property and choice of occupation.** Pasture land as defined by land law is public land and therefore herders do not have rights on land other than winter and spring camps. Mining licenses are being issued on pasture land as well as legally possessed winter camp land. Mining companies therefore do not compensate loss of pasture. Herders pushed out of nomadic herding are forced to move to urban areas looking for ways to survive making up 1/3 of migrants living in Ulaanbaatar.<sup>32</sup>
  32. **Right to information, participation in decision-making and benefitting from development.** Mongolia has 31 laws pertaining to environmental protection but none of them contain the principles of the UN Declaration on the Right of Indigenous People to information and participation in making environmental decisions relating to their land.
  33. **Right to social services and social benefits:** Herders pushed out by mining move to farther remote locations in order to preserve source livelihood income. This creates additional hurdles in getting education, health care and social services. In most cases due to lack of residence registration they lose access to health, education and welfare services.
  34. **Right to education** – unequal access to and quality of education, discrimination within schools and rampant violence rural children, migrants from rural areas and disabled persons are not able to exercise their right to education on equal basis. Agricultural sector wages have always been the lowest. Rural residents send their children for schooling to urban centers thus paying the highest cost to educate their children. While the right of a child to education has been declared the Law on Secondary Education provides for right of a school principal to discharge children from school on basis of low performance, disciplinary problems and pregnancy.
  35. **Right to water** is being negatively impacted by mining activities. Until 2010 mining licenses have been issued with no regard to protected watershed and source areas.

<sup>29</sup> As of January 4, 2010 a total of 5,630 mineral licenses were issued of which 1,170 mining, 4,460 are exploration licenses, which altogether cover a territory of 3,9454.898 hectares of land.

<sup>30</sup> [http://www.ssa.gov.mn/index.php?option=com\\_content&task=view&id=37&Itemid](http://www.ssa.gov.mn/index.php?option=com_content&task=view&id=37&Itemid)

<sup>31</sup> Information and data supplied by local resident groups

<sup>32</sup> "Challenges Faced by Migrants" Survey, Population Periodical, 2004, #11

Uncontrolled use of water for mineral extraction have led to contamination and drying out of many ponds and river streams. According to 2007 Water census 702 rivers, 1,487 springs, 10 spas or a total of 2,954 surface water sources have dried out.<sup>33</sup>

36. The Government fails to ensure that environmental and social impact evaluations are carried out in due manner. This results in loss of ecological balance of rivers and lakes violating citizens' right to water. Government spent USD33M of foreign loan to construct Taishir hydro-power station on Zavhan river. Inadequate calculation resulted in partial loss of water stream, reduction in water table of Airag and Hyargas (Ramsar sites) and complete disappearance of Zost, Setert, Ulaan Sair, Ovoot, Har Ganga lakes. Taishir hydro-power station was designed to supply power to seven soums in Zavhan and Gobi-Altai aimags.<sup>34</sup> Since its opening in 2008 the station could not produce promised power but violated the right to water of 7,000 local herders with their 460 thousand animals forcing to migrate.
37. **Air pollution** in Ulaanbaatar, home to over one million population, is 3-6 times higher than that of Western Europe and North America, and 10-20 times higher than the World Bank standard.<sup>35</sup> Air pollution<sup>36</sup> causes higher incidence of respiratory diseases among population reaching 878,18 incidences per 10,000 population ranks pollution as #3 cause of illness<sup>37</sup> seriously affecting the right to healthy and safe environment. Government spends billions from central budget and borrows from international financial institutions without results<sup>38</sup>. These funds are spent without prior research or monitoring of expenditure, benefitting public officials who gain through corruption and misuse.
38. **Right to appeal to court for redress.** Intensification of mining development is entailing an alarming trend of impunity for damages caused to environment and human health as in the case of 340 residents of Hongor soum, or in the case of thousands of hectares of land never seeing restoration effort<sup>39</sup> since 1992. Root cause for these is rampant corruption, unfair and corrupt justice system as well as lack of knowledge and information at the local level on ways to protect their rights and land.
39. The State or public office has the authority to claim environmental damage but this does not happen due to involvement of public officials in mining businesses as Mongolia has not to date adopted a conflict of interest law. Civil society does not have legal rights to claim for public interest. Individuals who claim environmental damage as damage to their rights are soon "silenced" by whatever forms work: bribe or threat or combination of both. This leaves no protection for environment regardless of laws and mechanisms that exist.
40. In April 2009 Cabinet issued Resolution 86 to allow degazettal of 62,256.58 ha of land from protected areas for purposes of mining exploration<sup>40</sup>. This is direct violation with State's MDGs commitment: "to have increased land under protection to 30% of land by 2015".

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<sup>33</sup> Ministry of Nature and Environment, 2007 Annual Report

<sup>34</sup> [http://www.ea.energy.mn/index.php?option=com\\_content&view=article&id=89&Itemid=66](http://www.ea.energy.mn/index.php?option=com_content&view=article&id=89&Itemid=66)

<sup>35</sup> Enhancing Policies and Practices for Ger Area development in Ulaanbaatar, A Study, World Bank, 2010

<sup>36</sup> Ulaanbaatar air pollution average for January 2010: sulphur trioxide 6.1mkg/m<sup>3</sup>, in some areas up to 170.66 or 128 times higher than permissible level, nitrogen dioxide at 40mkg/m<sup>3</sup>, in some areas up to 106 mkg/m<sup>3</sup> or 77 times higher than permissible level, dust 48-423 or 63 times higher than permissible are air pollution averages. [http://www.mne.mn/mn/index.php?option=com\\_content&view=article&id=468:news&catid=34:2008-12-21-10-33-26&Itemid=53](http://www.mne.mn/mn/index.php?option=com_content&view=article&id=468:news&catid=34:2008-12-21-10-33-26&Itemid=53)

<sup>37</sup> Mongolia 2008 Health Sector Indicators, Health care department  
<http://www.doh.gov.mn/images/pdf/sma/uzuulelt/2008mng.pdf>

<sup>38</sup> Bln MNT spent in 2008, 7 Bln MNT in 2009 and in 2010 plans to take \$23 M form the Millennium Development Fund for this purpose.

<sup>39</sup> [http://www.mne.mn/mn/index.php?option=com\\_content&view=article&id=499:news&catid=34:2008-12-21-10-33-26&Itemid=53](http://www.mne.mn/mn/index.php?option=com_content&view=article&id=499:news&catid=34:2008-12-21-10-33-26&Itemid=53)

<sup>40</sup> Reserving land, Cabinet Resolution #86, 04.01.2009, [www.legalinfo.mn](http://www.legalinfo.mn)



### **Recommendations:**

41. Government of Mongolia should take action to create legal environment for implementation of human rights and freedoms provided in international treaties and conventions, in the Constitution of Mongolia. To this end:

- Create the following laws and legal provisions essential to the implementation of human rights: such as the law on protection of the rights of victims/witnesses; law on guaranteeing citizens' right to participation; law on gender equality; law on combating gender based violence; law on independence of publishers; code of ethics of parliament members; law enabling civil society to conduct public interest litigation and monitor implementation of laws with binding effects.
- Amend the laws that are having adverse impact on human rights such as the Law on State Classified Information<sup>41</sup>, Law on Public Finance and Administration, laws on courts, law on registration of NGOs, provisions on taxation and social insurance of NGOs; law on submitting a draft parliamentary resolution; and the package of election laws; law on political parties; administrative procedures and guidance produced in arbitrary manner.
- Establish mechanisms for evaluation of laws such as the Law on public radio and television, law on combating domestic violence, provisions of the Criminal Code on crimes of human trafficking, Administrative Court Procedure Law and the Law on Public Service which result in serious violation of human rights and freedoms because of their inadequate implementation; Ensure participation of human rights civil society organization in the evaluation process;
- Build knowledge and capacity of judges to use human rights and freedoms provisions of provided for in international conventions and the Constitution in practical work;

42. Strengthen national human rights protection institutions and mechanisms:

- Implement Section 1.1.3.1.3 of the National Human Rights Action Programme: “ The functions of the Constitutional Court shall be strengthened to enable it to serve as an effective mechanism to address human rights violations”;
- Strengthen the oversight capacity of the Human Rights Subcommittee of SGH to review and evaluate laws, decisions and development policy documents approved by SGH for compliance with provisions of the Constitution and international human rights instruments; Build HRSC capacity to analyze impact of legislation on the status of human rights and freedoms.
- Strengthen the independence and broaden the mandate of the National Human Rights Commission, amend the Law NHRC to conform to the Paris Principles; Revise commissioner selection criteria and include knowledge and experience of human rights as essential criteria.
- Implement the National Human Rights Action Programme through provision of adequate financing to its implementation. Ensure participation of all stakeholders, improve coordination and cooperation among all parties. Evaluate NHRAP implementation with the broad participation of civil society stakeholders.
- Create legal environment conducive to the development, sustainable and independent activities of civil society organizations. Legislate provisions to allow civil society organizations to carry out public interest litigation and monitor implementation of laws with binding effect

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<sup>41</sup> Law on State Classified Information restricts access to information at all levels of government and private sector.

- Reform the judicial system and to ensure independence of the judiciary. Create mechanisms for enforcement of judicial ethics, reform the process of selection and appointment of judges.
  - Support civil society NGOs and NGO network development through established of a joint Government –donor fund, increase support to local community NGOs.
43. Mongolian Government should recognize poverty as violation of human rights and freedoms and should implement the following to reduce poverty:
- Create sufficient numbers of appropriate jobs; improve productivity; revise minimum wages; eliminate conditions supporting slave labor forms.
  - Learn and employ methodologies for developing human rights based policies with participation of all stakeholders, especially poor citizens. Involve poor citizens, civil society in the designing and implementation of development programs and ensure through laws their effective participation.
  - Support civil society monitoring of foreign aid through open access to information on assistance programs and projects in the Mongolian language, build-in funding for financing aid monitoring in the aid program implementation budgets.
  - Improve the implementation of ICESCR and recommendations from the Committee on ESCR, recommendations and requirements issued by the UN Special Rapporteurs.
44. In order to guarantee citizens' right to environmental balance and to prevent from its violation take the following measures:
- Join the Aarhus Convention developed from UNECE, ensuring public participation, transparency of environmental decisions, revise national environmental protection legislation to conform with this Convention.
  - Incorporate principles of the UN Declaration on the Rights of Indigenous People in national laws, especially in environmental protection legislation.
  - Include provisions on public participation in decision-making process in the laws and procedural rules of local administrative units and self-governance authorities.
  - Carry out an independent monitoring of Ulaanbaatar air pollution reduction projects and where necessary initiate corruption investigation, hold those responsible accountable.
  - Annul Cabinet Resolution #86, return degazetted land to relevant protected areas; Ensure implementation of MDGs commitment to increase protected land area to 30% by 2015.
  - Amend environmental protection laws to ensure that economic, social and environmental impact assessments are carried out prior to allocation of licenses; for strategic mineral deposits introduce requirement to issue licenses based on audited economic, social and environmental impact assessments by independent international institutions.
  - Establish environmental courts, environmental departments in police and prosecution authorities.
  - Incorporate legal provisions allowing civil society organizations to pursue public interest litigations on environmental damage.
  - Carry out independent evaluation of claims on health, property and environmental damages of Hongor soum residents of Darkhan-Uul aimag, and compensate them.
45. The State may need **technical assistance** in building capacity to implement above recommendations:
- Introducing human rights based approaches into all levels of policy development and program planning
  - Building capacity for analyzing the content and implementation of policies, programs and laws from human rights perspectives
  - Strengthening national human rights protection institutions and mechanisms
  - Establishing a fund for supporting sustainability of civil society organizations