

Mongolia - Stakeholders Submission on Right to Food to OHCHR for UPR on November 23, 2010

1. This report is prepared by the Right to Food thematic working group of the Human rights NGO Forum established to coordinate the civil society submissions to the UPR of human rights in Mongolia by the UN Human Rights Council. The Forum discussed and determined most pressing human rights issues and established thematic working groups responsible for data gathering, researching and preparing a draft submission for discussion by the Forum. This report on the status of implementation of the right to adequate food has been approved after receiving and incorporating comments and inputs provided by Forum members in 3 separate sessions. The working group members represent “Huns (Food) Coalition” comprising 20 NGOs, “Centre for Human Rights and Development”, “Steps without Border” and “Republican party Women’s Union”.
2. Mongolia is a predominantly an agricultural economy with a unique nomadic livestock herding tradition inherited from ancestors. With 1,564,116 sq. km, the 2009 census counted an estimated 2.6 million population and 43 million heads of livestock.¹ In 2009 crop sector and farmers planted wheat, potatoes and other vegetables on an area of 680 thousand hectares. The agriculture sector employs about 40% of the total work force².
3. Despite the vast territory, small population, millions of livestock and high rate of donor funding the official numbers show that during the past 20 years one third of the population was impoverished and continues to stay poor.³ Due to poverty, 57.9% of households are not able to consume calorie-rich food, 1 out of 4 children of under five is stunted, one out of 8 children is underweight, 32.1% suffer from rickets, 43.2% have vitamin D deficiency, 37.1% of pregnant women and 30.5% of women in post-natal period suffer from vitamin D deficiency⁴.

Legal protection of the right to adequate food:

4. International obligations: Mongolia has ratified several international conventions and treaties directly or indirectly dealing with implementation of the right to adequate food. For instance, ICCPR, ICCESCR, conventions on rights of women, children and disabled, the Rotterdam Convention, agreements on phytosanitary and plant quarantine measures, etc.
5. The Constitution of Mongolia and other related laws: The “right to food” is not formulated in the Constitution of Mongolia per se. However, provisions on citizen’s rights “to life...”, “right to live in a healthy, safe environment, and be protected from environmental pollution and loss of ecological balance...” incorporated in local laws imply that citizens have a right to adequate food.
6. Although several laws concerning food safety are already in place, there is no holistic legal environment that provides for protection, prevention of violation citizen’s right to adequate food and redress or compensation in cases when damage is suffered.
7. The Law on Food regulates the food supply process, while Law on Protection of Consumer Rights, Law on Inspection of Animal and Plant Quarantine, Law on Standardization and Quality Assurance, Law on Genetically Manipulated Live Organisms deal with food safety issues.

¹www.nso.mn. Report prepared based on Dec. 2009 NSO data

² Livestock Sector Assessment, 2009, World Bank

³ Implementation of MDG’s in Mongolia, Report. Page 3, NGO “MONACH”, 2007

⁴ Report on the State of Implementation of the Right to Food in Mongolia, SIA-2008

8. A major setback on the right to adequate food was made when during re-drafting of the Law on Food in 1998, provisions on guaranteeing the basic rights to adequate food, implementation methods, policies and functions of the government, were eliminated. Although revision of this law was initiated again in 2008, the process has not been completed to date. Hence, a legal environment to address the citizens' right to adequate food in a broader context, including supply of high-calorie food, access to safe food, the right to be free of hunger, right to healthy living standards is yet to be addressed.
9. Although NHRC reported on the Status of the Right to Adequate Food in 2005 it appears indisposed to advocate for change of the legal framework to guarantee the right to safe and adequate food, mechanisms for remedy/compensation for damages to be ensured through court decision.
10. A National Human Rights Action Program launched in 2003 does not include provisions on ensuring citizen's right to access nutritious food, to be self-sufficient to buy adequate foodstuff, their right to traditional diet, to be compensated for damages caused by violation of this right by others⁵.
11. An assessment of the status of implementation of the National Program for 2001-2015 on "Food supply, food safety and nutrition" was carried out in 2006 reporting "unsatisfactory"⁶ evaluation. This program was revised to "Food Security" and is expected to be implemented by the government in 2009-2016. There is no evidence of tangible improvement in the implementation of the right to adequate food despite dozens of food supply and agricultural programs i.e. "Milk", "Combating Iodine Deficiency", "Ecologically Clean Products", "Green Revolution" and "Crop Campaign 3" have or are being implemented.

Protection of the right to adequate food

12. The Mongolian government delayed submission of its report on the status of implementation of ICESCR for over six years with its due deadline passing in 2003. UN Special Rapporteur conducted a mission to Mongolia in 2004 concluding that Mongolia has become dependent on food import leading to loss of food sovereignty. The foodstuff import continues to rise, as the government hasn't taken any measures to enhance domestic production. It isn't clear what actions taken by the government in line with this conclusion as food imports continue to grow. In 2009, UN Special Rapporteur submitted a questionnaire comprising of 12 items on measures to be undertaken by government in connection with the world financial crisis and growth of price of food products. Measures taken by government are inadequate and do not present tangible change.
13. The government continues to fail in providing its citizens with sufficient amount of safe, nutritious food, satisfying traditional dietary needs, at reasonable, affordable prices.
14. **The right to nutritious, high quality food:** The statistics report that 60% of households are undernourished with minimum daily intake of calories. Severe weather conditions in Mongolia require a higher standard for daily intake of calories set at 2,731 Kcal.⁷ Due to low income generation, citizens cannot afford to buy food to satisfy their needs in calorie

⁵ www.legalinfo.mn. Parliament Resolution 25, 2005.

⁶ UNDP and Government Joint Evaluation Report on Food Security, 2006

⁷ www.moh.mn. 1997 resolution A/318 of the Ministry of Health and Social Welfare. (*consumption of 230 grams of meat, 380 grams of pasta, 340 grams of daily products, 27 grams of butter, 60 grams of sugar, 120 grams of potato, 200 grams of vegetables, 25 ml of oil, 45 grams of rice, 280 grams of fruits, 4 grams of fish products, 7 grams of eggs will provide 104.85 grams of protein, 76.23 grams of fat, 406.74 grams of hydro carbonates worth 2731.18 Kcal*)

- intake, vitamins and minerals such as eggs and fish, which are particularly rich with vitamins, amino acids and minerals.
15. The Report shows that 19.2% of children under age five are stunted due to malnutrition, 0.6% - underweight and almost 6.4% of these children are emaciated.⁸
 16. **Right to safe food:** The right safe food also continues to be violated. Tests and inspections at the SSIA determined that 17% of 97451 samples tested and 39% of 463 food raw materials were contaminated. Of total of 70,926 samples of food products tested at the bacteriological laboratories of SSIA, 9.6% contained with bacteria, 4.0% were determined to be poisonous, and 10% to contain heavy metal.⁹
 17. Poor implementation of preventive actions and insufficient vaccination of livestock is caused by privatization of the livestock and veterinary services. At the moment, veterinary centers are not capable of diagnosing and treating diseases such as brucellosis, tuberculosis, leukosis and other diseases, which are contracted from affected animals.
 18. Due to lack of experts and low technical capacity of laboratories the overall quality of food has diminished leaving unaware citizens to consumption of unsafe food resulting in food-poisoning and related digestive system diseases and the number of fatal cases is growing. Almost 80% of food products consumed by the country are imported, of which a mere 40% is tested at laboratories of border zone and central customs. Implementation of the right to safe food is further adversely affected by poor performance of outdated lab equipment, unskilled personnel, unethical behavior of public servants and rampant corruption.
 19. **Right to adequate food:** The statistics show that households from vulnerable groups consume small amounts of 2-3 types of low calorie, non-nutritious food products, which evidences inability to ensure minimum nutrient intake¹⁰. Despite sufficient supply high food product prices close access to adequate food to majority of the population who are unable to ensure daily intake of nutrients.
 20. **Right to afford adequate food:** The citizen's right to adequate food and to be free of hunger is violated by a combination of low income levels and high consumer prices on food products. The poverty level stayed unchanged at 36.3% of total population for the past 10 years. Spending as much as 46% of income by poor households in urban and 58% of the income in rural areas these households cannot escape hunger and the consequences of malnutrition.
 21. Due to shortage of cash on hand both herdsmen and unemployed are undernourished eating one meal per day. Most of these households fall into debt, giving their livestock and property as collateral to banks, women leave their jewelry, unemployed their ID, pension, social benefit cards with pawnshops or grocery shops to obtain basic food products entering a never ending net of debt¹¹. The minimum wage level set at 75\$ by the government sets a bad standard for private sector leading to further deterioration of already breached right to food. After deduction of social charges and income tax a worker receives some 60.8\$. A worker is to spend at least 4.2\$/day or \$126.00 per month on food alone if he/she were to achieve adequate daily intake of calories. Obviously, with minimum wage set at this level, one can not cover the cost of food products for him/herself, not mentioning the need to provide food for the rest of the family. Therefore, the minimum wage level set by the State does not guarantee the citizen's right to food.
 22. **Right to traditional diet:** The citizens have always been denied their right to diet suitable to the environmental and whether conditions. The flour plants, meat processing

⁸ UNDP and Government Joint Evaluation Report on Food Security, 2006

⁹ Implementation of MDG's in Mongolia, Report, page 3, NGO "MONACH", 2007

¹⁰ Response to UN Special Rapporteur's questionnaire submitted by the government. 2009

¹¹ www.foodsovmn Survey on impact of food price increase on population's livelihood, 2008, Food-coalition

- shops, poultry processing houses, dairy producers who are capable of supplying the domestic market with meat, dairy and wheat products, are not working at their full capacity, as the market is oversupplied with cheap, low quality imported products due to unfavorable conditions for offering low interest loans and proper taxation environment to boost domestic production.
23. Long distances and lack of direct access to markets inhibits chances of herders and farmers to earn more to improve their livelihoods. The damage caused to both producers and consumers resulting from deficiencies of a supply chain dominated by middlemen is growing. Small family businesses in rural areas fail to develop due to lack of policies that support growth and competitiveness, access to markets of family business produce.
 24. Inadequate policy on use and ownership of land has lead to disparity between the size of land given to larger companies and tiny plots for family businesses on lease reduces the minimum profit these households manage to make. Mining boom resulting in takeover of pastureland, contamination of vegetation, soil and water is forcing herders to give up herding and move to the outskirts of cities.
 25. Water sold at a lower cost to large companies for irrigation and mining purposes results in excessive and uncontrolled use and deterioration of surface, ground and underground water sources. The 2007 statistical data report that 38.5% of citizens living in population centers use poor quality water, characteristics of which do not comply with relevant standards.¹²
 26. The 2009 data reports that \$114.2M worth projects implemented by food and agricultural sector were financed by 11 international development organizations and governments of 17 countries. Nearly 70.2% of these funds were provided in a form of grants¹³. Total loans taken amount to \$550 loans per capita exceeding the average income of the population and driving the country into dependency on external financial assistance. Despite flow of massive financial resources, those below poverty line, rural households and vulnerable groups, which make up to 60% of the population, continue to face severe food shortages, and the domestic food production still down with no hope of revival in sight.
 27. A results oriented system of strategies is required to boost development of rural areas, to support food self-sufficiency of households, to increase efficiency of financial support by making the procurement processes transparent and enabling monitoring by CSOs and local communities.
 28. MDG, Goal 1: Reduce poverty and hunger: The government undertook to halve the proportion of people who suffer from malnutrition. This target is not likely to be met as the trend for both poverty and hunger is continued rise. Implementation of the right to food is insufficient. There are no procedures to guarantee and protect the right to food, to rectify damages through court rulings, to obtain compensation and to file complaints.

Recommendations:

29. Amend the Constitution to include provision guaranteeing the “right to food” for all;
30. Develop procedures to guarantee the right to adequate food, right to claim compensation for damage, and define obligations of the government to support, protect and provide for the right to adequate food in the new draft of Law on Food;
31. Involve Human Rights Sub-committee of the Parliament in ensuring implementation of the right to adequate food provisions;
32. Amend the law on NHRC to comply with Paris Principles, ensure its independence;

¹² Government Response to UN Special Rapporteur’s Questionnaire, 2009

¹³ www.mofa.gov.mm/mn/b Website of the Ministry of Food, Agriculture and Light industry

33. Build capacity of human rights CSOs through adoption of legal provisions supporting access to information, independence and financial sustainability;
34. Revise the “National Program on Right to Food” to include provisions on the right to adequate food;
35. Submit to UN the 4th report on the status of implementation of ICESCR produced in discussion with all stakeholders;
36. Improve food safety monitoring and inspection capacity through technical improvement of laboratories and other inspection facilities;
37. Establish an independent laboratory to inspect and monitor food safety;
38. Develop a suitable system for delivering products directly from herder/farmers to consumers, reducing cost of middlemen.

Technical assistance required for implementation of recommendations

39. Establishment of an independent laboratory for inspection of sample food products;
40. Develop legal provisions to allow public interest litigation for CSOs;
41. Technical assistance to small and medium entrepreneurs engaged in husbandry and agriculture;
42. Provide technical assistance to privately veterinary services, monitor and support operation of these facilities;
43. Development of legal provisions that will engage civil society in monitoring and evaluation of projects implemented by UN, other international donors and investors.