

**SUBMISSION OF THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA
TO THE UNIVERSAL PERIODIC REVIEW OF
THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

Introduction

1. The National Human Rights Commission of Mongolia (hereinafter Commission) is an independent national human rights institution with A status accreditation of the ICC of NHRIs and has a mandate provided by the Law of Mongolia on the National Human Rights Commission adopted in 2000. The Commission has assessed the situation of human rights and freedoms in Mongolia for the timeframe of last four years (2005-2009) and submits, according to the United Nations Human Rights Council resolution 5/1, relevant information to the Universal Periodic Review.

National Legal Framework

2. The Constitution of Mongolia, in its article 10 part 10.3, provides that international treaties to which Mongolia is a Party, shall become effective as domestic legislation upon the entry into force of the laws on their ratification or accession. In 2003, the State Great Khural (Parliament) adopted the National Action Plan for Human Rights, an important policy document for reinforcing state mechanisms guaranteeing realization of human rights and freedoms, combating their violations and ensuring effective implementation.
3. In 2005, the State Great Khural adopted the Millennium Development Goals along with additional goal no.9 on “strengthening human rights and developing democratic governance”, including the distinct circumstances of our country. Moreover, in 2008, the National Comprehensive Development Policy was adopted based on the Millennium Development Goals. Furthermore, a positive step forward was made by establishing the National Development and Innovation Committee for developing and realizing the action plan of the Government; assessing the implementation of Comprehensive Development Policy, Millennium Development Goals, Main Direction of Economic and Social Development; developing, renovating, and improving Economic and social innovation policy, technology, innovation concept, short and mid-term strategies.
4. The article 3 part 3.2 of the Law on Courts provides that the Court shall be the guarantee of human rights and freedoms. Therefore, the Supreme Court of Mongolia made an important step towards protection of human rights by adopting the resolution on “Application of international treaties and internationally accepted legal norms, principles in court practice”.

Cooperation with international human rights protection mechanisms

5. Mongolia has ratified and acceded 7 out of 8 UN core human rights treaties (CCPR, CESC, CERD, CEDAW, CAT, CRC, CRPD). Ratification and on time reporting upon implementation is essential for any country. Thus, the Commission has included in its annual report on Human Rights and Freedoms-2007 the issue of unfulfilled above obligation within given timeframe set by international treaties and submitted a recommendation which has become the trigger for the Government to submit its third and fourth national reports to Committee on Rights of the Child and fifth national report to Human Rights Committee. Since 2007, the Government has made improvements in preparation of national reports on implementation of international human rights treaties by receiving the opinion of the National Human Rights Commission. Moreover, the Government made an important step forward in 2009 by adopting the “Regulation on preparation of national reports on implementation of international treaties”, which makes clarifications upon authorities responsible for preparation of the national report in due time and provides CSOs participation through receiving opinions of NGOs.
6. Taking in regard that the Special Procedures mechanism is a crucial link in reporting on human rights situations, the Government of Mongolia invited the Special Rapporteur on torture (in 2005) and the Special Rapporteur on the right to education (in 2009) and presented the situation in the country.

Human Rights Issues

7. The statement of the President of Mongolia that, within his mandate, a pardon shall be granted to every person sentenced to death penalty becomes a decision *de facto* abolishing the death penalty. This has an essential relevance to chapter 2 part 2.1.1 of the National Action Plan for Human Rights on ensuring right to life, to seek pardon, to grant pardon, postponing execution, reducing the number of offences subject to death penalty and eventually abolishing the death penalty. The new revised draft law on the Criminal Code submitted to the State Great Khural reduces the number of offences subject to death penalty by five, leaving only the cases of aggravated homicide (article 105 part 105.2) and assassination of a statesman or a meritorious social figure (article 261 part 261.1), showing the signs of progress in implementation of the above action plan.
8. As result of vigorous activities such as persistent investigation and studies of the Commissions, efforts of Mongolian legal authorities and recommendations of the Special Rapporteur on torture, the awareness of officials on the right to be free of torture in the process of case registration and investigation is being raised and the mechanism of liability for persons committing human rights violation is being strengthened. Furthermore, for prevention from this type of crime, it is necessary to bring the subject of the crime in

compliance with the definition of CAT and to ratify the OPCAT along with establishing the national preventive mechanism.

9. Along with ensuring the freedom of assembly guaranteed through international treaty, it is also necessary to pay special attention to ensuring public security according to article 21 of CCRP, which has been proven by the riots taken place on 1st of July 2008. In this context, relevant legal framework is being carefully studied for improvement and best practices from international community is being acquired. Moreover, based on the findings of the Commissions annual report, the State Great Khural established two Working Groups, the conclusions of which will clarify further measures to be taken in this respect.
10. The factors such as poverty level of approximately 35 per cent¹, lack of interconnection of traditional economy with social and economic development, weak state policies directed toward the rural areas, are resulting in massive migration into cities and urban areas. This reveals the need for state measures for creating pleasant conditions to work and live in rural areas.
11. Loose quality control over domestic and imported alimentary products is proved by persistent cases of illness, poisoning, death from food products. If this situation will further degrade, it will have a negative impact that might affect national security, thus, this issue requires particular consideration of the State.
12. Positive steps have been taken by the Ministry of Social Welfare and Labor for increasing the economic capacity of citizens through the policy of evaluation of labor in hours rather than in days and alleviation of the minimum income level. In recent years the work places have been increased in certain amount, however, labor security and health control does not gain the augmenting pace.
13. Starting from the academic year of 2008-2009, the Government brought the General Educational System in compliance with internationally accepted standards and strives for preparing competitive human resources through the policy of introducing 12 year-based educational system. However, from the perspective of human rights based development it is important to build up professional capacity of human resources of the educational sector, to create child- friendly environment and to provide education through new child rights respecting approach.
14. The resources for measures to be taken in relation to the programmes within the framework of ensuring the right to health have not been clearly defined. Although it is important to conduct reforms in health insurance system and public awareness of health education through

¹ National Statistics Committee, Study on household socio-economic situation, 2008.

foreign aid and investment, nonetheless, it is necessary to increase the budget of the health sector.

15. Women's participation is essential in making gender sensitive decisions at any level. Thus, the abolition of the article 28 part 28.2 of the Parliamentary Election Law in 2007, stating that 30 per cent of all candidates from parties and coalitions shall be women turned into a step backward in process of achieving the target 6 of the Millennium Development Goal 3. The news revised draft law on Parliamentary Elections submitted to the State Great Khural demonstrates signs of improvement, as it contains a key regulation for raising the percentage of women in legislature through the provision stating that 15 per cent of all candidates from parties and coalitions shall be women. Moreover, since 2009, the State has given much concern and taken positive measures for improving legal framework in respect to gender equality and domestic violence, in result of which, relevant draft laws have been submitted to the State Great Khural.
16. The Government of Mongolia is carrying out programmes for ensuring child rights, as UNICEF and other international organizations are closely collaborating for strengthening national child protection system. Within the outcome of this collaboration, the "Strategy for strengthening child protection" was developed, however, the process of its' adoption is being very slow. Weak legal regulations of child adoption and violations of rights of the children living in difficult conditions confirm the urgent need for improvement in the child protection system.
17. As a result of active engagements of organizations of the legislature and the executive, National Human Rights Commission and organizations for persons with disabilities, Mongolia ratified the Convention on the Rights of Persons with Disabilities along with its Optional Protocol in 2009. Thus, it is essential to establish an independent monitoring mechanism within the structure of the Government involving persons with disabilities, their organizations and other stakeholders. Moreover, the inaccessibility to both information and surroundings has a negative impact on full participation of persons with disabilities in their daily life, therefore, this issue requires consideration on creation of positive surrounding for persons with disabilities based on active participation of the public and cooperation of relevant organizations.
18. The measures towards improving the well-being of elderly persons such as provision of flats and increase of pension are being resolutely taken. Nonetheless, the service provided to elderly persons from the State is only limited by social welfare. Therefore, it is necessary to endeavor for possibilities of providing full participation of this group of people in social, economic and cultural life.

19. Though programmes for preservation of traditions, heritages, languages and cultures of national minorities (Kazakhs and Tuvas) within realization of their rights are carried out, notable achievements are not seen. It is doubtless that the new revised draft law on Parliamentary Elections submitted to the State Great Khural providing that no less than 2 percent of all candidates shall be Kazakh is crucial for enabling the participation of national minorities at the decision making level.

Based on above situation, the Commission is submitting following opinions on the measures to be implemented:

1. To achieve the goal of the National Action Plan for Human Rights to abolish death penalty and ratify the Second Optional Protocol of CCPR within realization of civil and political rights;
2. To ratify the OPCAT and, according to it, establish a national preventive mechanism within the structure of the Commission;
3. To promptly establish an independent monitoring mechanism within the structure of the Government according to the CRPD and ensure multilateral participation;
4. To invite UN Human Rights Council's Special Rapporteurs on the right to food, on toxic and dangerous products and wastes and on the right to health;
5. To intensify policy measures directed from urban towards rural areas and ensure the independence of local administrative organizations;
6. To ensure the participation of women and national minorities at decision making level through setting quotas in the legal framework;
7. To intensify the process of improving child protection system.