



NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

**SUBMISSION OF THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA
(NHRCM) TO THE HUNDRED-FORTIETH SESSION OF THE HUMAN RIGHTS
COMMITTEE**

**ON MONGOLIA'S IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
THE POLITICAL AND CIVIL RIGHTS**

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public information purposes.**

The National Human Rights Commission of Mongolia (NHRCM) is an independent national human rights institution with "A" status accreditation of The Global Alliance of National Human Rights Institutions. It has a mandate provided by the Law of Mongolia on the National Human Rights Commission, adopted in 2000.

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**LIST OF ISSUES SUBMITTED TO THE UNITED NATIONS HUMAN RIGHTS
COMMITTEE BY THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA
RELATED TO THE 7TH PERIODIC REPORT OF MONGOLIA ON THE
IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON THE POLITICAL
AND CIVIL RIGHTS**

The National Human Rights Commission of Mongolia (NHRCM) hereby expresses its concerns and positions on the 7th periodic report of the Government of Mongolia regarding the implementation of the International Covenant on Civil and Political Rights as follows:

Article 7

Torture and inhuman and degrading treatments persist.

1. The NHRCM is alarmed by the continued psychological torture and inhumane treatment of arrested, detained, and imprisoned individuals and their family members. Such practices persist in criminal procedures, prisons, and detention centres.

Use of solitary confinement

2. Post-Mongolia's ratification of the Second Optional Protocol to the ICCPR in 2012, the 2015 Criminal Code revisions abolished the death penalty, endorsing life imprisonment. Section 1 of Article 5.6 of the Criminal Code defines imprisonment as the confinement of a person who has committed a crime for a specified period or the remainder of their life in an open or closed prison. Section 5 of the above article stipulates that in cases specified by this law, the offender shall be confined to a closed prison and sentenced to life imprisonment, demonstrating a commitment to complying with international norms for treating individuals sentenced to life imprisonment. However, following Article 206 of the Law on the Enforcement of Court Decisions, all sentenced to life imprisonment are confined in the special solitary confinement unit of closed prisons. Although the applicable laws stipulate imprisonment conditions in compliance with international norms, life-sentenced individuals are often subjected to solitary confinement, contradicting these standards.

3. Despite legal provisions, certain practices deviate significantly from constitutional guarantees and international treaties, where individuals with minor disciplinary violations are subjected to solitary confinement. Such practices severely violate human rights, degrade legal status, and are inconsistent with the Criminal Code. Section 8 of Article 206 of the Law on the Enforcement of Court Decisions states that if a prisoner had two or more disciplinary violations or had a severe breach, the council shall propose transfer from a regular regime of open penitentiary facility to special regime and from regular regime of closed penitentiary facility to special regime of closed penitentiary facility, from special regime to special unit by aggravating the grade and regime, to the prosecutor and prosecutor shall decide within ten days. It has been observed that some convicts serving aggravated sentences have committed serious crimes and have had 1-2 disciplinary

violations. Individuals convicted of crimes against property rights, such as theft and robbery, and sentenced to 2-7 years in jail are being held in solitary confinement in a special unit for life imprisonment.

Article 9

At the judicial stage, there is no time timeframe for pre-trial detention.

4. The Law on Criminal Procedure (2017) (LCP) defines pre-trial detention durations, yet, in practice, the period often extends without clear limits, particularly for defendants during court proceedings. Under the LCP, the fundamental duration of pre-trial detention for the "accused," stands at 12 months for offences stipulated in the Criminal Code with a maximum imprisonment term of up to 5 years and 18 months for offences carrying a full imprisonment term exceeding five years. In specific instances, the duration may extend up to 24 months for particular categories of crimes. According to the General Authority for Implementing Court Decisions, as of 26 February 2021, there were 384 people detained in the detention centre during the trial stage, and, as of 06 February 2022-2023, there were 18 people arrested for a long time during the trial stage. The minimum period of detention was five months and two days, while the maximum was 42 months and eight days.

5. Article 14.10 of the LCP governs the utilisation of pre-trial detention as a restraining measure for the "accused." However, there is a lack of clear procedures for applying pre-trial detention as a restraining measure for the "defendant" awaiting case resolution during the court stage. As a result, the criminal courts frequently enforce pre-trial detentions "until the next court hearing" without hearing whether a condition for pre-trial detention still exists.

6. Law enforcement officers and judges are hesitant to impose restraining measures other than pre-trial detention, such as limiting the accused's ability to leave specified or specific administrative units. Such a situation is partially related to the lack of procedural regulations concerning the use of electronic tags in the LCP. Thus, the courts have ordered pre-trial detention for even those accused of crimes that do not carry imprisonment.

7. The NHRCM has received numerous complaints about extended detentions, indicating a concerning trend of pre-trial detentions exceeding regulated durations. For instance, the NHRCM received 29 complaints from the detained in 2020, 54 in 2021, and 96 in 2022. A total of 179 complaints were received, out of which, in 2020, there were five complaints about detention at the court stage longer than the period of detention regulated by the law, nine in 2021 and 10 in 2022.

The procedure for criminal investigation involving mentally disabled persons is vaguely stipulated in the LPC.

8. Because of the ambiguous stipulation in the LPC, offences involving mentally disabled persons are investigated in the same way as others; as a result, they are detained and imprisoned alongside the general population, resulting in human rights violations. Furthermore, there is no specific procedure for conducting psychiatric diagnosis for the mentally disabled who are competent enough to be responsible for the crime or not, creating an ambiguous legal environment.

Article 12

During the COVID-19 outbreak, Mongolian nationals faced difficulties entering their own country.

9. The onset of the COVID-19 pandemic led to stringent border closures, significantly impacting Mongolian nationals abroad. The Government's handling of repatriation has been criticised for violating the right of citizens to return to their country. The lack of clear policies and guidelines during the pandemic led to delays and human rights violations, with government actions being opaque and inconsistent.

Article 14

Implementation of the right to be presumed innocent is insufficient.

10. The lack of clear policies and guidelines during the pandemic led to delays and infringements of human rights, with government actions being opaque and inconsistent.

Article 17

Privacy is an imminent concept, and the efforts to protect personal data are at an early stage.

11. Mongolia's COVID-19 pandemic experience demonstrated the vulnerable nature of protecting privacy and personal data and their implications. The Law on Prevention, Combat, and Reduction of Social and Economic Impacts of the Coronavirus (COVID-19) Pandemic adopted on 29 April 2020 lacked provisions for collecting, using, and protecting personal data. The absence of a robust legal framework led to unintentional data leaks and privacy violations, exacerbating individual dignity, mental health, and safety risks.

12. The digital economy and development are at the core of government policy priorities. Although Mongolia enacted the Law on Personal Data Protection in December 2021 as a part of policy and legislative reform to guide the digital transition, little has been done to promote the societal understanding of privacy and personal data, resulting in ongoing abuses of privacy from data handlers and the public being ignorant that their privacy has been infringed.

Article 19

Financial and political influence hamper the freedom of the press.

13. Despite legal principles supporting media freedom and over 600 registered media outlets, the NHRCM notes the undue influence of financial interests and incomplete information, hampering the full realisation of media freedom in Mongolia. The Law on the Freedom of Press (1998) needs to be refined to protect the freedom of expression further to include, among others, the measures to support media diversity, including the community media, self-regulation of the press and independence of editorials, protection of confidential journalistic source, proper limitations of the media monopoly.

Article 21

Mongolia legalised the freedom of assembly and freedom of expression, but in essence, there are issues.

14. Although the Law on Procedures for Demonstrations and Assemblies (1994) has facilitated the right to freedom of peaceful assembly, the NHRCM observes a precarious situation where authorities often restrict or indirectly suppress demonstrations and assemblies, particularly those critical of the Government. Isolated cases of suppressing critical voices have been registered at the NHRCM, often using criminal and offence case instigations.

Article 22

The revised draft laws concerning NGOs should acknowledge and facilitate the space for free association and self-regulation by citizens.

15. The Government tabled the revision of the Law on Non-governmental Organizations -- the Law on Legal Status of Associations and the Law on Foundations -- to the Parliament in 2021. The revision expands regulatory measures concerning NGOs. These laws must acknowledge and facilitate the space for free association and self-regulation by citizens, adhering to democratic principles.

The NHRCM is concerned that these and other identified issues represent significant impediments to fully realising civil and political rights in Mongolia. The Commission urges immediate attention and remedial action to align with international human rights standards and commitments.