

# MONGOLIA

## NGO REPORT

### On the implementation of the ICCPR (prior to the adoption of the List of Issues)

Centre for Human Rights and Development

*April 2010*

With the support of :



The Centre for Human Rights and Development (CHRD) was established in 1998 by a group of human rights activist researchers and lawyers. It is an independent non-government, non-partisan and non-profit organisation registered under the Mongolian law on NGOs. CHRD aims to contribute to the promotion and protection of human rights, and social justice in Mongolia. CHRD's vision is for a society where all individuals and groups will have capacity to and be able to claim and enjoy their human rights and fundamental freedoms contributing in the creation of a just and humane society through active, free and meaningful participation in development.

CHRD held a workshop with the NGO Forum, a group of NGOs formed to take part in the UPR of Mongolia, to identify important issues for the Human Rights Committee review of Mongolia. The NGOs suggest that the Committee ask the State about the following points in the List of Issues on Mongolia.

If you would like further information on any of these issues do not hesitate to contact us.

Centre for Human Rights and Development  
Liberty Square 2/1,  
Chingeltei duureg, 6th khoroo,  
Ulaanbaatar 211238, Mongolia  
[chrd@mongolnet.mn](mailto:chrd@mongolnet.mn)  
[www.chrd.org.mn](http://www.chrd.org.mn)

With the support of:

Centre for Civil and Political Rights (CCPR)  
1 Rue de Varembé  
1202 Geneva  
Switzerland

Tel: +41 (0)22 332 2554

E-mail: [pbrett@ccprcentre.org](mailto:pbrett@ccprcentre.org)

Website: [www.ccprcentre.org](http://www.ccprcentre.org)

### **Article 1:**

- Issuing mining licenses without informing local people and without obtaining their comments is a violation of the rights enshrined in the Article 1 of the ICCPR. The State could be asked how this is considered in the 5<sup>th</sup> periodic report. Could the State please give detailed information about how many licenses are issued in Mongolia right now and how many of them have been issued without first obtaining comments from local people? Are there any legal requirements to obtain comments from local communities before issuing mining licenses?
- How does the Government understand the content of the right to self determination? What has the government done or what will it do to raise the awareness of government officials about the right to self determination in relation to indigenous herder communities?

### **Article 2:**

#### **Non-discrimination:**

- Is there any legal regulation in the Constitution or in other laws to protect the rights of sexual minorities?
- What activities has the government carried out or is the government planning to undertake to protect the rights of sexual minorities?
- Is there in Mongolia any law combating gender based discrimination?

#### **Framework within which the ICCPR is implemented:**

- Is there any possibility to complain if some laws violate human rights or are not in compliance with the international human rights treaties to which Mongolia is a State Party?

### **Article 3:**

- How does the Government assess the participation of women at the decision making level in Mongolia? For instance, what percentage of parliament members are currently women? Has this figure increased in comparison to the previous parliament?
- Did removing from the Law on Parliament Election the legal provision requiring a quota for women candidates for parliament elections have an influence on decreasing the number of women parliament members?
- What measures have been taken by the Government to combat domestic violence? For instance, what exact measures have been taken to improve the implementation of the Law on Combating against Domestic Violence?
- The Committee noted in its Concluding Observations in 2000 the failure to make marital rape an offence. What measures have been taken by the government to make marital rape an offence?

### **Article 4:**

- In 2000 the Committee recommended that the Government amend laws to fully protect all the non-derogable rights enumerated in article 4 of the Covenant. Were these laws amended?
- Did the Government find the perpetrators who killed 5 people during the state of emergency (in July 2008) and bring them to justice?
- Did the family members of the victims get compensation?
- What did the Government do to prevent such violation of the right to life during the state of emergency?
- Were police officers who committed torture, inhuman and degrading treatment of detainees during the state of emergency brought before the court? Did the victims of torture and inhuman and degrading treatment get any compensation?

- How many people were punished for being involved in the 1 of July demonstration and how long were they detained for? Were they all provided with the possibility of realizing their right to receive legal assistance in all stages of investigation and court, especially women, children and people with disabilities?
- Were the judges who punished people without proper evidence brought to justice?

**Article 6:**

- What measures have been taken to implement the Committee's recommendation in 2000 to reconsider the necessity of maintaining the death penalty? After the amendment of the Criminal Code in 2002, did the number of crimes punishable with the death penalty increase?
- Could the State please provide detailed information on how many people received the death penalty in the last year? And how many of them had their sentences commuted to life imprisonment by the Supreme Court or the President?
- How many people are dead because of environmental pollution caused by mercury and cyanide in Darkhan-Uul province Khongor soum since 2007? Does the Government consider this to be a violation of the right to life of its citizens'?
- Why hasn't the Government taken any appropriate measures to end the violation of the right to life of its citizens while many people are dead?
- 

**Article 8:**

- What measures have been taken by the Government to eradicate labour exploitation in the private and informal sector?
- What percentage of employed people are still living under the poverty line? What does the Government consider to be the reason for this?
- Is there any law in Mongolia to provide adequate protection to victims of human trafficking and to compensate them?

**Article 9:**

- How many people were arrested during the state of emergency and for what kind of legal offences? How many of them were women, especially pregnant women, and children, people with disabilities?
- How many of them were found not guilty?
- Were the police officers (and their supervisors) who committed human rights violations (such as not informing the arrestees of the legal grounds for their arrest and not informing their family members of their detention) during the arrests, brought before the court?
- What measures have been taken by the Government in order to prevent a recurrence of such human rights violations?
- There were incidents during the state of emergency where human rights defenders who helped the detainees, such as advocates and NGO workers, were followed by intelligence agents. Is there any law to protect the rights of human rights defenders?

**Article 10:**

- Could the State please provide additional information about the torture and inhuman degrading treatment of detainees which continued even after the state of emergency was over?

#### **Article 12:**

- Local herders are forced to move or are displaced as a consequence of negative impacts of mining in their area, violating their rights under article 12 of the ICCPR. What kind of measures has the Government taken to date in order to protect the rights of local herders and to assist them in coping with challenges they are facing?
- How many herders moved due to a loss of pasture lands and winter and spring camps because of mining activities?

#### **Article 14:**

- How much money has been spent to date for judicial reform and what has been its impact?
- What percentage of such funds has been spent for improving human rights knowledge and the approach of judges?
- There are centres providing legal assistance to people who cannot pay for lawyers. But, do such centres provide legal assistance and consultancy to people who were victims of crimes or whose rights have been violated due to civil and administrative cases? What measures have been taken by the government in order to increase the number of advocates working in the centres?
- Is there a suitable legal environment or methodology to protect victims or to compensate victims for their physiological damage?
- The Committee was informed that courts are inadequate to protect public rights where they are violated? What measures have been taken by the Government to improve judges' knowledge and approach in protecting public rights such as environmental rights?
- Is there any court decision to punish perpetrators of human rights violations because they didn't do environmental and social impact assessment prior to conducting any activities which have negative impacts on the environment and society?
- Are there any cases where the court punished people based on only his/her own testimony?
- Is there any legal possibility that NGOs can bring cases to court directly when public rights (for instance environmental rights) have been violated?
- Is it necessary in Mongolia that an advocate should get permission from the Association of Mongolian Advocates' in order to meet with his/her clients in detention centres?
- What measures have been taken by the Government in order to improve the system of judicial accountability and to establish public oversight in the process of examining violations of the judiciary's ethics code?
- Are the ethics of candidates considered as basic criteria for selecting judges? At which levels?
- Are Mongolian advocates obliged to become members of the Association of Mongolian Advocates? Is this the only organisation recognised for advocates? Could you provide additional information in this regard?
- It is reported that the Government cancels advocates practicing certificates if they do not implement their duty as member of an NGO. For instance, the Ministry of Justice accepts the request from the Association of Mongolian Advocates' and cancels advocates' certificate of who didn't pay membership fee. Is there any legislation that allows the Government to cancel an advocate's license if an advocate can't pay membership fee to the Association of Mongolian Advocates?

#### **Article 19:**

- Is there any Law on the Rights to Access to Information in Mongolia? This law has been pending in the Parliament for years. What is the reason?

- Why is information about the activities that may cause negative impacts on the environment and human health not adequately open to the public? What measures are currently taken by the Government to disclose environmental information?
- Is there any clear or detailed legal procedure enshrined in any laws to provide information to the public in Mongolia?
- Is there an enabling legal environment and institutionalized legal mechanism with regard to obtaining comment from the public and local communities before the approval of development projects and programs? Is there any law requiring social impact assessment before the approval of development and business projects?

**Article 21:**

- It is common practice for officials to ban peaceful demonstrations and arrest the participants. Were the officials who committed these human rights violation brought before the court or not?
- Is it possible to organize a peaceful demonstration if the local administration refuses to give permission?

**Article 25:**

- Can Mongolian citizens who live outside the country vote?
- Is it possible to buy votes?
- Is there any legislation that provides procedural regulation to enhance public participation in decision making?

**The case of Mr. Shaariibuu who lost his daughter in Malaysia and is seeking justice**

**What happened:**

Altantuya is citizen of Mongolia, 26 years old, a mother of two boys who are 4 and 10 years old. On 19 October 2006, Malaysian police officers killed her in Malaysia through an army bomb. But court procedure on this case has been pending since 2006. The Government of both countries do not pay attention to bring justice.

**Challenges:**

Malaysian court declared in 31 October 2008 that Razak Baginda is not guilty for her death who ordered this crime. Only the police officers Azila, Sirul Azkhar were found guilty. But the Mongolian Government still didn't get officially court decisions and do not take and appropriate measures to urge the court decision.

**Question to the Government of Mongolia:**

What measures has the Government taken to protect the lives of its citizens abroad and to claim justice and compensation for the death of this citizen from the Malaysian government?