

**INTERNATIONAL
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ON CIVIL AND
POLITICAL RIGHTS**



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INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
HUMAN RIGHTS COMMITTEE
Sixth Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial Reports of States Parties due in 1977

Addendum

MONGOLIA

[20 December 1978]

The Mongolian People's Republic ratified the International Covenant on Civil and Political Rights on 18 November 1974.

Fundamental principles of civil and political rights existed in Mongolian legislation even before the entry into force of the Covenant. Comments on individual articles of the Covenant are given below.

Part I

Article 1

"The land and its mineral resources, forests, bodies of water and their wealth, State factories, mines, power stations, rail transport, arterial roads, communications, banks, State-owned agricultural enterprises (State farms, machine and livestock stations, etc.), municipal enterprises and the basic housing stock in the towns and other inhabited centres, raw materials, the materials and produce of State enterprises, State trading establishments and warehouses, and scientific and cultural establishments, as well as the property of all State organizations and institutions are State property, i.e., the property of the whole people." (article 10 of the Constitution of the Mongolian People's Republic).

Article 2

"Citizens of the Mongolian People's Republic enjoy equal rights irrespective of sex, race and nationality, religion or social origin and position" (article 76 of the Constitution). The grounds and procedure for the acquisition or loss of Mongolian citizenship are laid down in the Mongolian Citizenship Act of 30 December 1974. "Aliens or stateless persons shall be admitted to Mongolian citizenship upon application irrespective of their race, nationality or religion" (article 6 of the Mongolian Citizenship Act).

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Mongolian law on criminal and civil procedure guarantees the right of any person to defence in court proceedings.

Article 3

"Women in the Mongolian People's Republic are accorded the same rights as men in all spheres of economic, State, cultural, social and political life. The realization of these rights is ensured by according women the same conditions of work, leisure, social insurance and education as men, by the State promotion of mother-and-child welfare, State assistance for mothers of large families, leave of absence from work before and after confinement with full pay and the extension of the network of maternity hospitals, nurseries and kindergartens.

The infringement, in any form whatsoever, of the equal rights of men and women is forbidden by law" (article 84 of the Constitution).

Part III

Article 6

Sentence of death is imposed for treason against the motherland, espionage, sabotage, terrorist acts, premeditated murder in the most serious circumstances, misappropriation of State or public property, theft of the personal property of citizens in the most serious circumstances, and robbery with violence, provided that this is specially stated in the criminal code (in the wording of the Decree of the Presidium of the Great National Hural of the Mongolian People's Republic of 5 January 1963). "... Men over 60 years of age, women and persons who have not attained the age of 18 years at the time of commission of the crime cannot be sentenced to death" (article 18 of the Criminal Code).

Anyone sentenced to death has the right to petition the appropriate judicial and State authorities for pardon or mitigation of the sentence.

Article 7

Mongolian legislation prohibits the subjection of anyone to torture or to cruel or degrading treatment or punishment. "The purpose of punishment is not to inflict physical suffering upon the convicted person or to degrade his human dignity" (article 16 of the Criminal Code).

Article 8

Mongolia is a party to international legal documents prohibiting slavery, namely, the Slavery Convention of 25 September 1928 and the Protocol amending it, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

Article 9

Citizens of the Mongolian People's Republic are guaranteed inviolability of the person. No one may be arrested except by a court order or on the warrant of a procurator (article 88 of the Constitution).

As a specific guarantee of the right to liberty and security of person, the Code of Criminal Procedure provides that no one may be detained by the competent State authorities for longer than 24 hours. The detention of any person for a period exceeding that laid down by law is permitted only when sanctioned by the procurator or the court. Unlawful arrest or detention by an official is punishable by law.

Article 10

Under Mongolian corrective-labour law, all corrective-labour institutions and their officials must observe and respect the human dignity of convicted persons and persons under preliminary investigation.

Juvenile offenders are segregated from adults and are accorded special treatment appropriate to their age and legal status.

Article 12

"Citizens of the Mongolian People's Republic may have the right to avail themselves of housing and to choose their place of residence" (article 7 of the Civil Code).

"Spouses have the right to choose their occupation, profession and place of residence within the territory of the Mongolian People's Republic" (article 14 of the Family Code).

Article 14

Justice is administered in civil and criminal cases in Mongolia on the basis of equality of citizens before the law and the court, irrespective of their social, property or official status, sex, nationality, race or religion (article 5 of the Code of Civil Procedure).

Mongolian legislation provides for public hearings of cases in all courts, but some exceptions are allowed by law. Hearings in camera are held in cases where this is required in the interests of protecting State secrets. The court is entitled to conduct proceedings in camera in cases concerning intimate aspects of life or crimes by persons who have not attained the age of 16. The judgements of the court are, however, pronounced publicly in all cases.

Under Mongolian legislation, the accused is not considered guilty until he has been convicted. For a correct determination of guilt, the court must examine not only evidence which establishes the guilt of the accused but also evidence which exonerates him. The court is under an obligation to verify all declarations by the accused and arguments advanced by him. The court requires the investigator and the procurator to produce convincing proof of the accused's guilt. In the absence of such proof, the accused must be acquitted irrespective of whether or not he has produced evidence of his guilt.

Persons who have reached the age of 16 before the commission of the crime are subject to criminal liability. If the court finds that a person under the age of 18 who has committed a crime which does not represent a great public danger can be reformed, it may apply the educational measures provided by law to that person.

Article 15

Only a person guilty of committing a crime - that is, a person who has intentionally or by negligence committed a socially dangerous act as defined by the Criminal Code of the Mongolian People's Republic - is subject to criminal liability and punishment (article 2 of the Criminal Code).

Article 16

Under Mongolian law, civil legal capacity - the capacity to have civil rights and duties - is recognized equally for all citizens of the Mongolian People's Republic. A citizen's legal capacity begins at birth and ceases at death (article 8 of the Civil Code).

Transactions on behalf of juveniles (persons who have not attained the age of 15) are performed by their legal representatives - parents or guardians (article 10 of the Civil Code).

Transactions on behalf of mentally ill persons who have been declared incapable are performed by their guardians (article 12 of the Civil Code).

Article 17

Mongolian law proclaims the right of every citizen to liberty and inviolability of the person. Citizens of the Mongolian People's Republic are guaranteed inviolability of the home and privacy of correspondence. No person may be arrested except by a court order or on the warrant of a procurator (article 88 of the Constitution).

Article 18

Citizens of the Mongolian People's Republic are granted freedom of worship and freedom of anti-religious propaganda (article 88 of the Constitution).

Article 87 of the Constitution reads: In conformity with the interests of the working people, and in order to strengthen the socialist State system of the Mongolian People's Republic, citizens are guaranteed by law:

1. Freedom of speech;
2. Freedom of the press;
3. Freedom of assembly and meetings;
4. Freedom to hold demonstrations and processions.

Articles 19 and 21

3. Freedom of assembly and meetings.

These freedoms are ensured by placing the material requisites for their realization at the disposal of the working people and their organizations (article 87 of the Constitution).

Article 20

Under Mongolian law (article 50 of the Criminal Code) war propaganda in any form is a punishable offence.

Any direct or indirect limitation of citizens' rights on grounds of nationality and the propagation of ideas of chauvinism and nationalism are prohibited by law.

Article 22

Citizens of the Mongolian People's Republic have the right to associate in public organizations: trade unions, co-operative associations, youth, sports and other organizations, cultural and scientific societies, and societies for strengthening peace and friendship among peoples, etc. (article 82 of the Constitution).

Article 23

The most important objectives of the State are to strengthen the family in the Mongolian People's Republic, to provide legal protection for the personal and property interests of spouses and other family members and to guarantee them equal rights.

The Mongolian Family Code regulates the relations which arise upon marriage or its dissolution and personal and property relations between spouses and between parents and children (article 2 of the Family Code).

Citizens of Mongolia enjoy equal rights in family relations. No limitation of citizens' rights or establishment of privileges at the time of marriage or in other family relations on grounds of sex, race, nationality or religion are permitted (article 5 of the Family Code).

In pronouncing judgement on the dissolution of a marriage, the court is under an obligation to determine which of the children shall remain with which parent. The court decides this question bearing in mind the interests of the parents and the children, the children's age and their need for parental care (article 29 of the Family Code).

Article 24

Parents are obliged to protect the rights and interest of their minor children.

Parents, as the legal representatives of their minor children, act to protect their rights and interests before judicial bodies and State, public or other organizations (article 42 of the Family Code).

"Births are registered and birth certificates issued on the basis of the notification of birth issued by the maternity home" (article 58 of the Family Code).

"When registering the birth or adoption of children, the civil status registration authorities register their citizenship at the same time, being guided by the Mongolian Citizenship Act".

Children should be given meaningful names which are easy to pronounce and write in their native language (article 110 of the Family Code).

Article 25

Citizens of the Mongolian People's Republic have the right to participate freely in the administration of the State and society and also in the management of the economic life of the country, both directly and through their representative bodies. This right is ensured by granting all citizens the real possibility of broad participation in all spheres of the country's political, economic and cultural life, and in particular, of participation in elections, referenda, the organization of various democratic societies, etc. (article 81 of the Constitution).

Citizens of the Mongolian People's Republic, irrespective of their nationality, have equal rights in all spheres of the country's economic, cultural, social and political life. (article 83 of the Constitution).

Article 27

The Mongolian People's Republic guarantees representatives of all nationalities living in the territory of the Republic the opportunity to develop their national culture, receive education and conduct business in their native language (article 83 of the Constitution).