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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Sixth periodic reports of States parties due in 2015**

**Mongolia<sup>\*</sup>, <sup>\*\*</sup>**

[Date received: 30 March 2016]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited before being sent to the United Nations translation services.

\*\* The annexes to the present report are on file with the Secretariat and are available for consultation.

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## Part I

### Article 1. All people have the right of self-determination

1. According to the Constitution adopted in 1992 Mongolia is a parliamentary republic. The distribution of political power in Mongolia is as follows: the State Great Khural is the legal upper body, the highest executive body is Government and top organization of the judiciary executive body of law is the Supreme Court.
2. As stated in Chapter One of Mongolian Constitution “Mongolia is an independent, sovereign republic”. The internal and external policies and affairs of Mongolia are conducted independently without any direct or indirect involvement of any other State and Mongolia has full capacity to engage in international relations with no dependency on another country.
3. By its state structure, Mongolia is a unitary State. The State Great Hural of Mongolia is the highest organ of State power and the supreme legislative power shall be vested only in the State Great Hural. The State Great Hural shall consist of 76 members and the members of the State Great Hural shall be elected by citizens of Mongolia entitled to vote, on the basis of universal, free, direct suffrage by secret ballot for a term of four years.
4. The Government of Mongolia is the highest executive body of the State. The Government is appointed by the State Great Hural and executes the state legislations and duties.
5. The President of Mongolia shall be the Head of State. Presidential elections shall be conducted in two stages and at the primary stage of the elections citizens of Mongolia eligible to vote shall participate in electing the President on the basis of universal, free direct suffrage by secret ballot. At the second stage the State Great Hural shall consider the candidate who has obtained a majority of all votes cast in the first voting and shall pass a law recognizing his/her mandate. The President shall be the Commander-in-Chief of the armed forces of Mongolia.
6. The judicial power in Mongolia shall be vested exclusively in courts abiding the Constitution. Judges shall be independent and subject only to law. A General Council of Courts shall function for the purpose of ensuring the independence of the judiciary.
7. The territorial integrity and borders of Mongolia are inviolable and the borders of Mongolia are safeguarded by law. Mongolia has armed forces for self-defense. The Mongolian language is the official language of the State.
8. The Constitution states “The State shall respect religions and religions shall honor the State ‘thus the relationship between the State and the Religion institutions shall be regulated by law and the principles of non-engagement of State institutions and Religious institutions in each other’s affairs, validation of citizens’ freedom to worship or not worship and freedom for religious denominations are provided”.
9. As of today there are 692 religious organizations are registered in Mongolia including religions such as Buddhism, Christianity, Muslim, Baha’i, Shamanism, Moon (around 600 religious denominations).

## Part II

### Article 2. Responsibility to ensure the human rights without discrimination

10. During the reporting period Mongolia has:
  - Acceded to the Optional II Protocol Towards Abolition of the Death Penalty of the International Covenant on Civil and Political Rights (2012)
  - Approved the ratification of the International Convention on the Protection of All Persons from Enforced Disappearance (2014)
  - Ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2014)
11. Ministry of Foreign Affairs has established Human Rights Division next to the Department of International Legal Affairs in 2014 to coordinate and ensure the implementation of international conventions, treaties, agreements ratified by Mongolia and to be in charge of development and distribution of reports and associated information.
12. The revised 1992 Constitution of Mongolia declares and guarantees the freedom and rights for citizens complying with the world practices, one of which is the determination of the fundamental right to Legal Aid.
13. Mongolia's shift to the market economy and democratic society opened opportunities the professionals and services of all sectors for the self-financing based on the free competition, one of which is the legal service and advocacy. On one hand this is the main factor for the sector development, however on the other hand citizens with financial difficulties, without payment options cannot receive legal assistance and support which eventually leads to the violation of their rights, furthermore it dragged along the negative consequences such as shrinking and limitation of the access to legal services nationwide.
14. The State is taking into consideration the above consequences and implementing step by step related measures to protect its citizen's rights. The "National program on providing legal aid to the indigent citizens" was approved by the Government resolution # 263 in 2006 and was implemented between 2007 and 2012.
15. Based on the experience, existing human resource and material base of the implementation of the above program the Law on Legal Aid to Indigent Citizens was adopted on July 5th of 2013 to ensure the legal environment for indigent citizens. The Legal Aid Center established next to the Central State Administration organ in charge of the legal affairs is in operation to organize the free legal aid and assistance for indigent defendants.
16. In the same period the Takhar Agency was newly established responsible for victim, witness protection in the form prescribed by the adopted law on Victims and Witnesses Protection. Takhar Department has taken under the protection 43 locations of 79 courts and 41 related offices.
17. There are in total of 72 staff involved in the free legal aid including 13 public defenders working for the Center, 50 lawyers of the sector and 9 public defenders assistants. The majority of the Center's local branch offices are based and operate next to the aimag governor's offices and depending on the crime occurrence level of the area the number of public defenders vary in each branch, around 1-4 public defenders are assigned to work in each branch.

18. As of the end of 2014 the public defenders of Legal Aid Centers have offered in total of 7,351 legal advices to citizens and provided legal services to 2102 suspects of 1,895 cases. Out of which there were 142 juveniles and 5 citizens of alien or foreign nationality.

19. In 2014 nationwide there were 6,375 criminal cases resolved in the trial and 1,895 suspects received free legal assistance in 2,102 cases. The number indicates the fact that from total number of criminal cases resolved at the trial 30% were conducted by the public defenders. The Mongolian Lawyers Association statistics show that number of public defenders covers 2.5 percent of the total number of lawyers. In other words, 2.5% of lawyers (public defenders) with rights to represent cases at the court worked on the 30% of the total number of criminal cases resolved by the court system.

20. Moreover, in the first half of 2015 the public defenders of the Center offered legal advices to 4,059 citizens, and provided legal services to 1,903 suspects of 1,763 cases. Out of which number of juveniles is 140 and number of aliens or foreign citizens is 6.

### **Article 3. Ensure the equal right of men and women to the enjoyment of all civil and political rights**

21. The Law on Promotion of Gender Equality was adopted in 2011. The revised Law on “Parliamentary Elections” was approved in 2012 introducing 20 percent of women quota in all participating political parties, coalitions and independent candidates in parliamentary elections. In 2012 out of total number of candidates for the parliament seats 32 percent were women and out of elected 76 members 14.47 percent or 11 were women which is four times higher than in the previous parliament. In the law on Promotion of Gender Equality the percentage of women representatives in ministries, agencies and local administrative bodies is determined to be no less than 15-40 percent. In public sector there are in total 17.9 thousand public officers are occupied out of which 57.4 percent are women and 27.6 percent are on the senior positions.

22. Mongolia has created equal access to educational opportunities in all areas of primary, secondary, tertiary, vocational and science educations, such as technology for boys, girls, men and women.

23. Mongolian government has established and is operating the National Center for Lifelong Education (NCLE) under to the Ministry of Education and Science. The policy implementation, quality and activities ensuring the equal access to education for girls, boys, women and men are monitored by the professional educational inspectors.

24. The above gender assessment was conducted in 2015 of Ministry of Justice and public special function and enforcement organizations to assist the penetration of gender principles, ideas into the sector policy and to understand gender issues based on the participatory approach.

### **Articles 4, 5. Human right and freedom limitation level in times of public emergency**

25. Human rights and freedoms as defined by the Constitution article 19.2 and other laws in case of a state of emergency or war shall be subject to limitation only by a law. Such a law shall not affect the right to life; the freedom of thought, conscience and religion, as well as the right not to be subjected to torture, inhuman and cruel treatment and this provision is reflected in the article 18 of the Law on Emergency and Disaster Protection.

26. During the state of emergency Minister of Foreign Affairs of Mongolia is obliged to immediately inform the Secretary General of the UN by the law on the reasons of declaring

the state of emergency and its actuation of derogating the duties stated in the ratified international Covenants on Mongolian Civil and Political rights, specific measures of restricting the human right and freedom and its time of termination.

27. A state of emergency was evoked only once by the President in the history of Mongolia. The incident occurred on 1 July in 2008 during the disorder and when the situation was out of control of related bodies. The President released the decree. On 1 July 2008 the group of people used the illegal force threatening the lives, damaging properties and creating danger of fire on the territory of Sukhbaatar district, the disorder occurred when the law enforcement forces were attacked, a need to eliminate this emergency situation and to restore the peaceful normal lives of people and society leads to the exercise of the full power bestowed upon the President by the article 33.1 .12 of the Constitution and article 5.3 and 6 of the law on Emergency and declare a state of emergency starting from 24.00 p.m of 1 July 2008 for 4 days duration on the territory of Ulaanbaatar city. In the period of the state of emergency the following measures shall be taken.

- To disperse the illegally organized assemblies and gatherings and other public events by legal force and means stated in the law.
- To restrict and conduct inspections of the traffic in the city center of Ulaanbaatar.
- To disperse, arrest group of people causing or caused public disorder, organizing or organized violent activities and confiscate their weapons and equipments.
- To restrict any movements in the city center of Ulaanbaatar (Baga toiruu) between 22.00-08.00 hours, and police and military forces to detain persons violating the order till end of quarantine time and if there are no identification or equal to documents shall detain for no more than 72 hours until the identification.
- To prohibit and when necessary to temporary confiscate loud speakers or equal equipments.
- To shut down other television channels except the Mongolian National Broadcaster and Radio till the end of the state of emergency.
- To prohibit alcohol sale and distribution.
- To establish control over usage of fire-arms, ammunition on the hands of citizens, and explosives and strong chemical, biological and radioactive substances, and military weapons, technique and equipment for training purposes of organizations and entities.

28. The commandment of the emergency measures required to implement this law and other legal regulations, the mobilization of relevant institutions, force and technical equipments to be taken over by Minister of Justice and Internal Affairs /Ts.Munkh-Orgil/.

29. The President Decree # 194 was issued declaring the state of emergency for 4 days in the city of Ulaanbaatar and on behalf of the Government of Mongolia the Minister of Foreign Affairs delivered a note to Secretary General of the UN.

30. The General Police Department head's procedure # 173 as of 4th of April 2010 on "Protection of social order during the state of emergency" /code 416/ was approved. The procedure prohibits restriction of human rights, freedom; ensures the right and freedom of life, belief, religion, non-religion and prohibits the torture, inhuman cruel treatment by the police force during the state of emergency.

31. The actions to be taken during the state of emergency are described in detail by the Police organization.

32. Based on the principle of the Constitution of Mongolia on human rights, freedom, fighting the violation of human rights and restoring the rights the parliament of Mongolia adopted the Law on Victims Compensation on 9th of July 2009. Since the adaptation of the law the State Budget has allocated 17.1 billion MNT for the purpose of compensation of victims. In addition following the Government of Mongolia resolution # 294 of 2009 on the compensation the work was organized to compensate 396 police force injured during the 2008 riot while performing their duties with 442.5 million tugrics.

33. Following the joint directive of the State Secretaries of Ministry of Health and Ministry of Justice, and General Police Department head 's order # 254 of 2011 the first stage medical inspection of 258 staff of police, military forces injured during the public riot of 2008 was organized.

### **Part III**

#### **Article 6. Every human being has the inherent right to life**

34. Mongolia has joined the Optional Protocol II of International Convent on Civil and Political right, thus will eliminate the death penalty for all. In the revised Criminal Code instead of this specific sentence the life imprisonment was newly reflected in the draft law with the regulation to shift to the term imprisonment after 25 years of imprisonment and meeting certain criteria.

35. Imprisonment has term imprisonment and life imprisonment forms. Term imprisonment shall be from a week till 20 years, the life imprisonment is from 20 years and more, the release is justified on the basis of serving the prison sentence in person for more than twenty-five years.

#### **Article 7. Prohibition of torture, inhuman or degrading treatment or punishment**

36. UN Convention Optional Protocol Against Torture and Other forms of Cruel, Inhuman or Degrading treatment or punishment was signed on 24th of September 2013 by Mongolia and was ratified on 11th of December 2014.

37. According to the Police Department law approved in 2013 the monitoring and control of Police Department and staff was handed to NHRC. This creates the independent national system of control over the police activities. The sub council was established to ensure the implementation of National Program on Human Rights in the police organization and to report to the higher authorities. The sub council is headed by First deputy of General Police Department. Within the scope of the human right activity and ensuring the implementation of the cooperation memorandum signed between Police General Department and NHRC the regular meetings are organized on updating on the past activities, further measures and recommendations, studies on culprits detained by the criminal law, complaints and information on human right violations from detained suspects, convicts, their resolutions, new goals and objectives to be defined in the action plans regarding the human rights and discussions of intended activities.

38. As for the Police organizational structure the Crime Fighting Division investigating the crimes committed by the special subjects of professional bodies was transferred to the General Police Department's Internal Audit–Security Department. “Operational procedure of Police organization” code 224 states that “the torture and inhuman treatment of temporary detained subjects in cruel, inhuman ways, to degrade, torture or punish

physically with any intention by the police is prohibited” and it is being implemented and exercised.

39. According to the General Council of Courts data of 2010-2014 the cases of torture stated in the Criminal Code are following: 2010 in Bayan Ulgii aimag 1 case 1 person, 2013 in Huvsgul aimag 1 case 1 person, in 2013 in Dornod aimag 1 case 2 people were sentenced for the violation of the provision 251 of Criminal Code. There were no requirements, official orders from the Prosecutors Office to the police in regard to the torture, other forms of cruel inhuman punishment or degrading treatment to one’s reputation.

40. The meeting and interrogation areas of the professional bodies supporting the investigation process were equipped with video recording equipments which eventually led to the outcome of having no record of torture and inhuman treatment in 2014 as the process of interrogation and meeting of inquirer, investigator, prosecutor, judge, reconnaissance and anti-corruption investigators with suspects and convicts became safer, the monitoring and control, protection, privacy and compliance with procedures improved sufficiently.

41. The conditions of detention centers and prisons were significantly improved by the completion of 6 new detention facilities between 2007 and 2011 in conformity with the international practices and finishing the capital renovations in 12 aimag detention facilities of Court Decision Executive Offices. Within the scope of achieving the UN standard for detention and prison conditions in 2013 five new standards were adopted and are exercised in practice.

42. The article 10.14 of the Constitution proclaims the right for the compensation “...right to be compensated for the damage illegally caused by other ...”

43. The article 498.4 of the Civil Code states that “The state shall compensate for the damage to natural persons who were taken to court as defendant, sentenced, arrested, detained or gave a written notice not to leave the place without legal grounds and those right were restored after, and irrespective of the degree of fault by investigator, police officer, prosecutor or judge”.

44. In the Law on Government Special Funds in the article 26, 26.2 it is stated that “...the special fund utilization decision shall be decided by the Government” also in the 8.3 of the law it is stated that “The below mentioned measures cannot be reflected in the annual budget therefore the fund mentioned in 8.1 of the law shall be used for the financing of such measures”. The payments to the citizens ordered by the court decisions from the Government Reserve Fund are being reflected in the annual budget of Ministry of Justice since 2008, furthermore between the periods of 2008-2014 the Government Reserve Fund has allocated 1.5 billion MNT to 137 citizens with court decisions.

## **Article 8. Prohibit slavery and forced labor**

45. The Labor Law states that “Employed men and women shall have the equal salary and compensation” however it does not reflect the principle of the International Labor Organization’s 100<sup>th</sup> Convention on Equal Pay which states that “men and women occupied on the same value job shall be paid equally”. This principle is reflected in the revised draft Labor Law.

46. In the revised draft Criminal Code it is stated that “Exercising the force on the victim, threaten to use the force, force the obviously detrimental terms and conditions, monopolize control over people taking advantage of their economical, health, disability, other unfavorable life conditions and forcing to unpaid labor shall be punishable by a fine equal to 10,000 to 40,000 measurable units or by imprisonment for a term of 2-8 years”.

47. In the Law on Court Decision Enforcement it is defined to “based on the agreement to pay equal amount for the convict’s labor the employer providing the job for the culprits shall transfer the payment to the detention center, the convict shall have a right to use up to 10 percent of a monthly payment and the rest to be handed upon the release”.

48. The law regulates the relation of assistance to the culprits to improve the legal knowledge, labor skills, professional orientation, enhancement of the education, providing trainings and organizing events on traditional customs, other topics on behavior, where in addition to the detention staff other parties such as religious institutions, charity organizations and other organizations and citizens shall be involved. Therefore detention centers and prisons are focusing their activities on providing the assistance for the improvement of convict’s labor skills, professional orientation and education and knowledge.

49. For example, the Industrial-training centers on professional development courses such as craftsmanship, carpentry, painting, sculpture, crafts, sewing and the work centers on sewing, carpentry and craftsmanship were established to prepare for the social life and socializing; the training, rehabilitation and reformation activities preventing the repeating of the previous behaviors are organized jointly with educators, social workers and psychologists.

50. Moreover, in detention centers for minors the “Training center” on craftsmanship, carpet processing and making, carpentry and wool and the “Psychological Cabinet” to support the behavior change, to build the correct psychological concepts, to prepare for the social life outside the detention were established and are operating currently.

51. According to the article 120 of the Law on Court Decision Enforcement and within the procedure of the head of General Court Decision Enforcement Agency as of 6th of February 2013 on “Defining the convict’s labor norm, pay assessment procedure” and the approved order # A/33 on “Guidelines to follow in the employment of the culprit by the agreement” and the agreement on “Employing the culprit by entities, organizations” the Court Decision Enforcement Agency engages the culprits in labor. As of 2015 there are 3,298 culprits were employed and received payment equal to 719,557,400 MNT.

## **Article 9. The right to liberty and security**

52. In the article 13 of the revised Criminal law “Crime against human right and freedom” chapter was reflected anew. It includes: “Forcing into prostitute, or any other form of sexual exploitation and abuse, slavery, to put in similar conditions, illegally involve in the forced labor, to use force in order to illegally exploit the organs, threaten to use force, steal, cheat, and break faith, abuse of power and vulnerability, paying, bribing people in control in order to recruit into subjection, transport, shelter, transmit and receive shall be subject to the imprisonment for a term of two to eight years.”

53. In this chapter the crimes and relation of human stealing, taking hostage, illegal imprisonment, and threat are regulated.

## **Article 10. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person**

54. In the article 69.1 of the 2002 revised Criminal law: confinement period for suspects is up to 14 days and for accused is up to 2 months, as for the serious, grave and extremely grave crimes depending on the complication of the case if there is a necessity to extend the confinement the court may extent the period of detention, however in overall the



investigation and confinement period should not exceed 24 months. In case of being accused for the attack on life of the state and social figure, sabotage, intentional homicide of a human under aggravating circumstances, torture in aggravated form and conditions, crime of genocide the court may extend the investigation and confinement period up to 6 months according to the article 69.3 of this law.

55. In addition if the committed crime is serious, extremely grave and the suspect has attempted the escape or there are enough facts and prove of suspecting in a serious, extremely grave crime, and the suspect, accused, defendant may possibly escape the inquiry, investigation, court or may put obstacles to the process of finding out the real facts of the crime and other special situations the juvenile can be arrested and detained. In case of arrest and confinement of the juvenile the parents, other legal representatives and defenders shall be notified within 12 hours. The article 366.3 of the law states that "Arrested or detained juvenile shall be separated/ segregated from the adult and convicted juvenile". The main period of detaining and investigating the juvenile is one month and it is legally regulated that the period for the investigation and confinement should not exceed 18 months.

56. Also juvenile and women are segregated from extremely dangerous criminals, repeated criminals, convicted by the court subject, and culprits are segregated from suspects and accused, persons with AIDs and tuberculosis and other infectious diseases and carriers of their bacteria's and the accused are to be separately detained, one case suspects, accused are to be segregated from other suspects, accused of the same case.

57. Taking into account suspects, accused crime case and personal history and depending on the requests from the inquirer, investigator and prosecutor they could be detained in the individual cells. As for the individually detained subject it is prohibited to communicate, talk, and exchange anything with subjects in other rooms the suspected juveniles and women are detained in the internment rooms.

58. The confinement terms and conditions for women and juveniles are being improved in comparison to other culprits' rooms; the attention towards their health, monitoring, diet, nutrition became the practice.

59. Following the law on Court Decision Enforcement and article 32 of the law on "Execution of the Order on Arrest and Detention of the suspects and accused" the women and juveniles are to be segregated from adult subjects.

60. The order A/209 of 24<sup>th</sup> of November, 2014 by the Minister of Justice on "Internal Procedure of Detention facility", "Standard Operating Procedure of Bailiffs", "Sample basic communication model with convicts" and other related laws legislations are followed and implemented in daily practice.

### **Article 11. No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation**

61. In the previous report the absence of any provisions restricting the person's freedom on the ground of inability to fulfill a contractual obligation in the Mongolian laws and legislations was pointed out. Here, to note that the situation stays the same as of today.

## **Article 12. The right to liberty of movement and freedom to choose the residence lawfully within the territory of a State and right to return to a State**

62. One of the main goals of cooperation in the legal sector of Mongolia is the insurance and protection of legal rights and interests of own citizens' and legal subjects overseas. Since the intensification of foreign policy from 1960s Mongolia started signing notes, documents of mutual legal assistance with other countries and protecting own and foreign citizen's rights and interests. In total, there are 26 agreements signed with 19 countries on International Mutual Legal Assistance on Civil and Criminal matters, Extradition of the Criminal, Transfer of the Culprit.

63. According to the Constitution of Mongolia it is prohibited to eliminate the birthright citizenship, to exile and extradite to another country citizens of Mongolia and the article 15 of the Criminal Code states: 1) Citizens of Mongolia shall not be extradited to a foreign state for prosecution in criminal cases or for subjecting to criminal liability; 2) Foreign nationals and stateless persons who committed crimes beyond the territory of Mongolia and are within the territory of Mongolia may be extradited to the foreign states to be subjected to criminal liability or for serving punishment as provided for in an international agreement to which Mongolia is a party.

64. As of 25th of November 2015 the number of Mongolian citizens travelled to overseas reached 1,810,083. Also 442,017 foreign citizens entered Mongolia.

## **Article 13. Expulsion of a foreign citizen**

65. The Law on Legal Status of Foreign Citizens was approved on 8<sup>th</sup> of July 2010, and on 26<sup>th</sup> of December 2013 the amendments were adopted. As of this amendment the foreign citizens Immigration Authority has been changed into General Department for Citizenship and Migration of Mongolia, its activities were in full power and extended starting from the 1<sup>st</sup> of April 2014 according to the Border Law.

66. According to the article 37 of the Law on Legal Status of Foreign Citizens if there is no basis for laying criminal charges, foreign citizens shall be deported for the following reasons:

- Entering the country on an invalid passport or forged documents
- Not leaving the country after their residence permit is expired
- The visitor has violated twice or more the visa, registration procedure and received charges stated in the law
- Conducted illegal activities stated in article 13 of this law on Control of drugs and substances of psychological influence
- Psychological illness was diagnosed by the health organization; */this provisions was amended by the law as of the 13<sup>th</sup> of December 2012*
- Using forged documents obtained visa and residence permit, or amended or forged visa and residence permit
- Employed without permission from competent authorities or engaged in business other than one's purpose of coming
- According to the article 35.1 of this law did not follow the voluntary exit from Mongolia

- Police delivered justified request on the foreign citizen who violated social order two or more times, received administrative charges
- Competent authorities consider the subject to be potential of organizing activities against the national security of Mongolia
- *The foreign citizen convicted by the court completed the sentence, or was discharged or it was agreed to transfer the foreign citizen to the related country based on the international agreement*
- Short stay visitor overstayed visa

67. The head of General Department for Citizenship and Migration of Mongolia shall issue a decision on the deportation of the foreign citizen from Mongolia based on the conclusion of the public inspector in charge of foreign citizen control.

68. General Department for Citizenship and Migration of Mongolia shall collect the photo and fingerprints of the deported foreign citizen and create the database. The decision on the deportation shall be implemented by General Department for Citizenship and Migration jointly with Border protection troops and police organization.

69. General Department for Citizenship and Migration of Mongolia shall register passports, documents of the foreign citizen to be deported and shall make notes on the prohibition period to enter the country. The expenses connected to the deportation from Mongolia shall be covered by the defaulting party or inviting party and in case of insolvency the expense shall be covered by the General Department for Citizenship and Migration of Mongolia.

70. *The deportation of the foreign citizen from Mongolia is not related to the issue of extradition of the culprit.* The deported foreign citizen shall be transferred to the respective country.

71. If it is impossible to deport directly it is permitted to deport to the previously residing country or the birth country, to the latest country of residency prior to entering Mongolia or the country of issuing the visa.

72. In the article 46 of the Criminal Interrogation Law the transfer of a foreign citizen and stateless person who committed crime on the territory of the foreign country or was convicted, in the article 47 the transfer of the subject to the related country when sentenced to imprisonment by Mongolian judiciary system is regulated and these issues and relations are reflected as to be resolved according to the international contracts and agreements.

73. In the articles 46,47 of the Criminal Interrogation Law the reasons to refuse/decline the transfer are reflected however the reason of “threat of torture” is to be the justified reason was not specifically reflected, still in the agreements, mutual contracts, negotiations where Mongolia is a party the justifications for the denial are reflected.

74. The article on the Mutual Legal Assistance reflects the issue of the legal protection and may contain certain waivers. According to the article 24 of Hague Convention on civil procedure of 1954 the cooperating countries shall have rights to exchange for free the citizenship data. The contracting countries based on the principle of equal distribution of national regimes shall equally distribute.

As of 25th of November 2015 in total of 27,814 foreign citizens from 121 countries are residing in Mongolia, there are 1,574 immigrants of legal age and 354 minors. There are 36 stateless people, out of which there are 18 stateless immigrants, 1 minor reside in Mongolia.

## **Article 14. All persons to be equal before the courts**

75. A Package Law on Courts became effective on April 15, 2013.

### **On the transition from a single law on the organization to the set of laws regulating the process**

76. In the Constitution of Mongolia the state power is divided into legislative, executive and judicial which established the legal basis for the judicial power to be independent. In order to implement this principle since the approval of Law on Courts in 1993 after 20 years starting from the 15th of April 2013 the Package Law on Courts came into force. The significance of these 5 laws is in the comprehensive regulation of all relations covering the judicial system. After the approval of the Package Law on Courts the revised Law on Establishment of the Court was approved on the 19th of June 2015 and became in full power from the 1st of July 2015.

77. *The segregation of the court and court administration insured the environment for the court to be immune from other authorities and independent in its activities.* For the first time, the General Council of Courts appointed by the Law on Court Administration reflecting the Constitutional principles was able to exercise its full powers and the conditions were created. Judicial power has become an independent branch of the government. In order to ensure the monitoring between powers and sustain the balance the judicial system to be formed as main, specialized and diversified, alongside with the legalized operation of “General Council of Courts” to ensure the independency of the court and immunity of judges. By approval of this law the General Council of Courts, its office, all level court offices could concentrate on the protection of rights, legal interests of judges and run all the administrative activities independently. The judge is involved only in the court process which allowed the court to be immune from other authorities and be independent.

78. In order to implement the Law on the Court Procedure to be transparent, open, accessible to the public in the web site /[www.shuukh.mn](http://www.shuukh.mn), [shuukh.app/](http://shuukh.app/)-containing all court decisions, ruling, resolutions except the ones related to the privacy and state secrecy is operating online. Currently the e-archive contains 180,868 decisions of 133,349 cases.

79. In overall, the audio and video recording and archiving equipments in 105 court halls were installed which allowed for the interested party to directly attend the open court, for the victims to copy the recordings, for police and prosecutor organizations to use it as training materials, for the Appellate court to copy, for the Ethics Committee of the Court to record the recordings of the particular court hearing of the judge and other.

80. Also all local courts were installed with video recording equipments that permit the General Council of Courts to run online all types of trainings, seminars, meetings, discussions. Besides it connects courts with each other to exchange information and data and allows the plaintiffs, authorized representatives, witnesses and experts to attend the court from the distance. In 2015 this system was used in total 127 times. For example it was used in the local court hearings 26 times from Ulaanbaatar, 78 times from other local areas in the local court hearings and 23 times for the trainings and seminars organized by the General Council of Courts.

81. *The entire court was specialized allowing to resolve disputes of citizens who need specialized expertise courts and judges.* In the Law on Courts as part of the Package laws on Courts of 2013 the capital city and some local first instance and appellate courts were re-established as independent solely specialized in criminal and civil matters and on the national level 75 courts in total started to operate specialized hearings. However, according to the 2015 revised law on Courts all first instance courts except of local 6 intersoum courts

were turned into courts solely responsible for civil and criminal matters and on the national level in total 99 courts have conducted hearings thus citizens were provided with full opportunities to have their hearings by specialized courts and judges.

**Court independence, percentage in the state budget, budget protection, remuneration of judges, other protection**

82. Within the judiciary reform framework to implement the Constitutional provision of having the State to provide the economical guarantee for the court activities the Government paid special attention and focused on the Package Laws on Courts.

83. The certain legal provisions were introduced such as: downsizing of the judiciary operation budget from a previous year is strictly prohibited; the General Council of Courts shall develop the judiciary budget including an operational budget and capital investment budget for all courts and to submit the budget directly to the State Great Hural; It is prohibited to approve and issue any administrative acts, legislations upsetting the principles of the courts to be independent or lowering the judge's conditions for independence and immunity such as legal, economical, social protection; the life and health insurance of the judges shall be covered by the state budget; the remuneration amount for the judge's position shall ensure the sufficient and guaranteed economical independence. All the above allowed to create the economical immunity for the judicial governance and the independent activity and conditions were guaranteed by the law.

84. The Court budget as of 2015 became 58.8 billion MNT which is 2.8 times higher in comparison to 2012 budget of 20.9 billion MNT and it is currently 0.75% of the total government budget which used to be 0.33% in 2012 that is 2.26 times growth. The increase of the court budget from 2013 permitted the successful renovation of the court facilities, improvement of equipment, renewal of furniture, insurance of judges life and health, making judges transparent and open to citizens, increase of number of judges, increase of judges' payment.

85. The capital expenditure budget was not approved on all court levels in 2014 and 2015. This led to the situation when increased number of judges and administrative staff since 2013 could not fit into the existing facilities, and currently lease foreign country facilities or function in old expired buildings with assessment from the public inspectors to be abolished. Therefore, in near future there is a need for the implementation of provisions on court facilities to be used solely for court hearings and no for any purposes, and for the judiciary to have its own premises, and an urgent need to provide courts with standard premises to guarantee the immunity, improve the economical guarantee and to develop further the legal environment.

**Economical independence – salary and other protections, the impact statement, other regulations**

86. Within the scope of ensuring social and economic guarantees of judges and court staff "Social protection of judges and court administrative staff" program was approved, and the preparation work to start the implementation within 2014-2020 is ongoing. The article 23.1 of the Law on Legal Status of Judges states that "The amount of salary of the judge position shall be sufficient and guaranteed for judges to conduct the duties independently".

87. The provision of the law was implemented and within the approved budget the salary level of the judge position was determined by the resolution #45 of 2013 of General Council of Courts which guaranteed the conditions for the economical immunity of judges.

88. The amount of the judge position remuneration within the scope of the approved budget was implemented by the law. It became the significant contribution since the

implementation of the Package Law to the security of the interests of judges, furthermore ensured the guarantee of human rights, liberty and justice.

89. Preventing the attempt to interfere with the judges duties the Impact Statement was introduced. The main guarantee for the judge's independence and immunity is the independent impartial decision outside of any influence on cases and disputes rooted solely in the law. In relation to the case and dispute hearings if there are any attempts to influence/interfere with the judge and court by any subject the judge shall fill out the Impact Statement which is one instrument of protection of immunity by the law on Legal Status of Judges.

90. The General Council of Courts (GCC) has received in total 12 impact statements from judges according to the article 22.4 of the Law on Legal Status of Judges. The "Impact statement resolution procedures" was approved by GCC on 8th of May 2015, since then 3 impact statements were received which were transferred to the investigating bodies.

91. As part of the implementation of social and economical protection of judges of the Law on Legal Status of Judges the insurance contract was signed with "Bodi daatgal" LLC to insure life, health of all judges of the first instance and appellate courts which created the risk prevention conditions.

92. Also in order to prevent the violation of rights and legal interests of judges as stated in the article 24 provisions 24.6, 24.7 of Law on Legal Status of Judges the amendments to eliminate the conflicting legislations, to improve the coherence were developed to be reflected in the Law on Pensions and Benefits payable from Social Insurance Fund and presented to the legislators.

**The creation of peaceful atmosphere, decreasing the court load, assisting in the efficient resolution of the dispute**

93. One part of the Package Law on Courts is the implementation of the Law on Mediation and Conciliation, since its implementation on 4th of February 2014 the Japanese JICA project jointly with Mediation Council and General Council on Courts have prepared in total 677 mediators through 20 trainings and all mediators were involved in the repeated trainings. Also the above mentioned organizations jointly organized monitoring of 12 aimag mediation activities and organized advocacy work of Law on Mediation and Conciliation and sent 66 people to Japan 3 times for the trainings on the mediation.

94. The annual report of 2014 on court mediations shows that out of 6,427 claims and complaints received on mediation 5,122 were resolved. Out of 5,122 resolved cases 2,847 were successfully mediated.

95. As of half year report of 2015 there 7,511 complaints were received and 5,748 complaints were resolved, out of which 3,842 or 66.8 percent reached conciliation.

96. The first half of 2015 report on the Mongolian court mediation activities in comparison to the same period of the last year indicates the 3.2 times increase of mediation complaints, 3.5 times increase in resolved cases and 2.1 times increase in the civil cases transferred from the court.

97. The ever-increasing year by year mediation cases of civil courts is the evidence of the successful mediation procedures and conditions, moreover this processes decrease the heavy work load of the court and judges up to certain level.

98. As a result of the sufficient increase in number of judges 100 new judges were employed, this led to the improved selection process, healthy competition among judges, new methods of selection.

99. For Mongolia in connection with the judicial reforms the selection process of judges was advanced. For the purpose of having transparent, fair, open, independent from outside influence, cost saving in terms of expenses and time selection process of judges the “SELECTION SYSTEM OF JUDGES” was introduced. It was implemented with the joint funding from the General Court Council and Asia Foundation project on “Supporting Governance and Transparency” financed by USA International cooperation support program. The selection along with the online process created the environment for the fair evaluation of the candidates outside the external influence and saved man power, time, expenses which turned out to be innovative comprehensive approach. The establishment of the new legal system including the selection procedure of judges, the operational procedure of the Specialized Courts Committee. The establishment of the legal new system through Selection Procedure of Judges, Operational Procedure of the Judicial Qualification Committee, Procedure Against Interests of Judicial Qualification Committee the legal conditions and environment for the independent Judicial Qualification Committee, the fair selection of judges and candidates by methods and instruments which image the international practices. For example: the judges included the behavior assessment of candidates in the selection method. The article 4.1.5 of the law on Legal Status of Judges states that the judge shall be aware of the professional ethics, values the justice, respect human rights, be immune to influence of others, be able to make independent decisions. The article 3.1.2 and 3 of the Selection Procedure of Judges reflected the selection indicators such as “professional ethics”, “judge behavior” for the candidates.

100. The Selection Procedure of Judges includes the random evaluation of the “Assessment of professional ethics of candidates for judge positions” by certain subjects with the capacity to determine the candidates. This is the new method of determining the candidate’s ethics and behavior by the judges. The study of the past history of the candidate, identifying the level of the professional ethics is important for the selection of the ethical judge.

101. As a consequence of the above legal reforms 100 new judges joined the judicial “kitchen” and human resource of the court was pumped with new energy. In other words 13 percent out of total number of Mongolian judges were renewed. It is notable that 52.3 percent of the newly appointed judges came out from the experienced lawyers with extensive practice as defenders, prosecutors, legal advisors. Also 25 judges from the above or 39.7 percent have Master’s degrees which are the indicators of the advancement of the educational level of the newly appointed judges. Within the scope of the legal reforms the judges were renewed up to the certain level thus the average age of all primary and appeal level court judges is 43.4. The preference of the newly appointed to the local area younger judges with higher education and knowledge to more mature judges who worked in the area for longer time, with tendency to be influenced by the personal influence shall positively benefit to the expected change in public suspicion of the court as being under the influence of acquaintances.

102. The “Court Training Program” was developed and implemented to advance the judiciary system, improve the policy of the on-going trainings and identify the new strategies. To ensure the success of the program the human resource of teachers, trainers were prepared and the specific topic curriculums were developed which is the start of the content shift towards the legal reform principles and international practices.

**Takhar protection: protection of the court order, witnesses and victims, ensuring the court attendance**

103. As follow up of the “Security procedure of courts and judges” A/96, # 90 approved by the Minister of Justice jointly with a head of General Council Of Courts in 2014 and article 6 provisions 6.1.1, 6.1.3, 6.1.4, 6.1.6 of Mongolian law on Takhar Agency as of the

first half of 2015 within the scope of providing the protection to courts and judges on the national level in 42 court facilities out of 43 there are Takhar Agency armored security working for 24 hours with 8 hour daily shift.

104. During the exercise of the power in total 6,947 criminal cases, 16,787 civil cases, 3,076 administrative cases hold hearings, out of which there are 68 online hearings and in total 27,453 hearings were held. Out of which 14,737 court hearings orders were secured and normal hearings were ensured, and 191,447 citizens' documents and identification documents were processed prior entering the court hearings.

105. During the court hearings the security of 91,572 participants in total were provided, out of which 1,219 cases of bailing, prevention and restraining of defendants at the court stage, 812 cases of detention prevention measurements, 1,466 cases of imprisonment, 1,816 cases of receiving different type of punishment, 406 dismissed cases of the defendants and accused at the courts were secured and taken necessary measures.

106. According to the related laws and procedures in the temporary detention facilities the rights and interests of the accused were secured by organizing meetings with 706 defenders and 1,681 related subjects.

107. The security was provided with additional force 29 times at the court premises and other places in relation to the court with numerous participants.

108. Within the framework of victim, witness protection program Takhar received in total 36 requests out of which 22 were from citizens, 2 were from defenders, 2 were by the judge order, 3 were documents from the Court offices on the protection of the victim, 4 were from the police to protect the victims, 1 was from Tuv aimag Police Department on protection of the witness, 2 were from NGOs. Following the requests in total 38 citizens were provided with protection such as 1 judge, 13 victims, 5 witnesses, 19 citizens related to the victim. The types of protections provided were forewarning of 11 people, personal protection of 3, and a temporary move to the safety place of 2 and provision of equipments and technology to 1.

109. Within the framework of delivering the suspects, culprits by armored escorting in total of 4,120 men and 204 women, 48 juveniles and 15 disabled were covered. Out of which 1,882 were escorted from the detention to the court, 3,091 from the court to the detention, 289 from the detention to the local regular condition prisons and in addition 55 people were arrested and delivered to the detention, 199 were sent to the transit unit, 9 were transferred to the National Center of Psychological Health and 12 were transported to the women detention prison.

110. Received 567 judge orders to bring in by force to the court witnesses, victims, suspects and other participants, performed 1,093 actions and delivered to the court 18 culprits, 504 responsible parties, 6 victims, 1 plaintiff, 4 experts and 18 witnesses.

111. Accepted 2,869 decisions to investigate the search for defendants of the civil case courts and successfully identified addresses and locations of 1,320 defendants and currently 1,516 defendants are under the investigation.

112. As well 2 culprits escaped from the court and 4 culprits escaped from the prosecutors watch were caught and delivered to justice.

113. *In 2007 the public trust in the judiciary system was evaluated as low as the percentage of public who did not trust the system reached 77 percent, currently 81 percent of citizens who were served by the court and 60 percent of citizens who were not served by the court responded to have trust in it. After approval of the judiciary reform program both the judiciary reform process and judiciary authority implementation process were not*



interrupted even slightly and the sole indicator to assess results of these two processes is the public trust in the judiciary governance.

114. Prior to the judiciary reforms in 2008 the Open Society Forum organized the independent assessment by USA professor Brunet Walter whose results showed 23.0 percent of public trust and “Sant Maral” research center survey of 2010 showed even lower numbers such as 15.0 percent of trust.

115. The public survey was conducted to determine the change among citizens and in community in regard to the trust in judiciary system as the intensified juridical reforms or the Package Law on Courts was already in force for period of 1.5 years.

116. The research on “Public trust in judiciary system” was conducted and it covered representatives of working age in the population from 21 aimags and 9 districts. The research was done by the random selection method, the expert interview was organized among the decision making level people and in total 3,290 people including the court staff, citizens were involved in the study. Out of which there are 2,522 citizens were not served by the court and 645 were served by the court system. The research shows that out of the total number of participants 60.6 percent of citizens both who were served and were not served by the court expressed their trust being increased in the judicial system. This percentage is even as high as 81.4 percent among citizens who were served by the court and who evaluated the court to be fair. However, the percentage of respondents who do not trust the court, its fairness is 39.8 percent among people who were not served by the court, and 21.5 percent replied as do not know. This is much higher in comparison to the responses by people served by the court.

#### **Support of judicial reforms by research participants**

|                                  | <i>Judicial reform support</i> |                       |                    | <i>Total</i> |
|----------------------------------|--------------------------------|-----------------------|--------------------|--------------|
|                                  | <i>Support</i>                 | <i>Do not support</i> | <i>Do not know</i> |              |
| Court staff                      | 93.8                           | 6.2                   | 0.0                | <b>100.0</b> |
| Citizens served by the court     | 61.5                           | 10.6                  | 27.9               | <b>100.0</b> |
| Citizens not served by the court | 46.1                           | 8.1                   | 45.8               | <b>100.0</b> |
| <b>Total</b>                     | <b>67.1</b>                    | <b>8.3</b>            | <b>24.6</b>        | <b>100.0</b> |

117. Among numerous steps and measures taken within the scope of the reforms the most appreciated and highly appraised achievement by people was the openness and transparency of the judicial process. This improved the public confidence in courts and was the important step and important indicator of increasing community support for the judicial reform.

#### **Article 15. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence**

118. In the newly approved 2002 Criminal Code the article 11 on “Socially dangerous activities, omission or non action to be considered as crime whether to hold the guilty party legally liable or not shall be decided according to the Criminal law in force at the time of the act, regardless of the time of reveal of the harm from the crime the actual time of

committing the crime shall be taken as the time of crime”, and article 12 on “in case of decriminalizing an act or non act, or mitigating the penalty for it, the legal status of the person who commits the crime shall apply retroactively to an accused, defendant or the person who has served the penalty but who’s conviction has not been expunged, a court shall reduce the penalty of a culprit who has been imposed one higher than the maximum amount established by a new law and a court shall reduce the penalty of a culprit who has been imposed one higher than the minimum amount in case a new law establishes a lower one” reflect the related regulations.

119. In relation to the omission of 51 crimes stated on the Criminal Code of 1987 the following procedure on the compliance with Criminal Code was approved:

- People convicted prior 1<sup>st</sup> of September 2002 for crimes decriminalized as criminal acts by Criminal Code shall be released from the remaining period and optional charges.
- The registration, investigation, court hearings of cases decriminalized by the Criminal Code as criminal acts shall be dismissed.
- If the penalties of the subjects who received the punishment prior the 1<sup>st</sup> of September 2002 are higher than the maximum and minimum amount established by a new law’s article, provision, the penalty shall be reduced in compliance with the Criminal Code by the court ruling.
- The people released from the penalty as stated in the article 1 of the law; people completed the penalty as due to the decriminalization of the case by the Criminal Code, the people released ahead of the term shall be considered to be without the penalty and the related work was organized.

### **Article 16. The right to recognition everywhere as a person before the law**

120. The article 14 of the Constitution states that “Each person shall be the legal subject”. To be a legal subject is the right of all people legally residing on the territory of Mongolia, the State shall exercise the right to regulate the rights and protect. This provision recognizes the legal rights of a person from the birth in some cases from the womb.

121. In the previous report the right is discussed in detail, how it is ensured by the Civil Code.

122. When the “State Legal Reform Program” approved by the parliament was assessed in terms of the implementation the evaluation was the following: “The Constitutional principle of recognizing each person before the law to be equal are established on the certain level in the legal environment and law enforcement activities”.

### **Article 17. Citizen’s privacy, home/accommodation**

123. In the revised Criminal Code in the chapter on illegally penetrating /entering the person’s premises it states “Penalty for the violation of the freedom and privacy of the person by entering the premises without permission from residents shall be the incarceration for a term of 1-3 months. The case of violation of authority figures of legal justifications and procedures and entering the premise, organizing the search, seizure illegally shall be fined in MNT equal to 4,670 to 20,000 measurement units or be imprisoned for a term of 1-5 years”. Various places, where people live permanently or

temporarily such as apartment, house, ger, huts, hotels, vacation house, resorts, cottage, tents are understood as home/accommodation.

124. The law reflects the illegal search, seizure, freezing and include provisions for unauthorized photographs, audio and video recordings and the case of “taking photographs, recording sound, image and audio-video of premises or outside of premises without permission of residents shall be fined in MNT equal to starting from one hundred measurement units up to one thousand three hundred thirty measurement units or shall be house arrested for 1-3 months or incarcerated for a term of 1-3 months.”

125. Personal privacy issue was clarified in comparison to the previous law “In case of obtaining of personally protected information not disclosed to the public without permission from the individual or authorized organizations and the distribution to others the subject shall be fined by MNT equal to four hundred estimation units up to four thousand six hundred seventy estimation units or shall be home arrested from one month up to one year or imprisoned from one month up to one year” which was reflected in the revised Criminal Code.

### **Article 18. The right to freedom of thought, conscience and religion**

126. The article 9.3 of the Constitution states that “The relationship between the State and the Religion institutions shall be regulated by law”.

127. The law of “Relation between the State and Religious institutions” regulates relations between the State and Religious institutions while ensuring the constitutionally proclaimed right and freedom of citizens of thought, conscience and religion.

128. As of the first part of June of 2008 there were 416 religious organizations registered in Mongolia and as of December of 2015 there are 692 religious organizations are registered.

129. As stated in the Constitution and the law on the Relation between the State and Religious institutions the citizens of Mongolia and foreign citizens, stateless persons are provided with rights to freely practice religion, freely select the beliefs and religions and there are no restrictions in establishing monasteries, temples or religious type subjects.

130. According to the revised Criminal Code the obstruction of the implementation of freedom of religion and refusing to religion by force, attempting the force, threatening to create substantial damage to the legal interests and putting obstacles in the activities of religious institutions or religious rituals shall be punishable by a fine equal to 100 to 2,340 measurement units or shall be house arrested for a term of 2-6 months, or incarceration for a term of 2-6 months.

131. The relation of substituting the military service by the civil alternative services is regulated by the law on Civil Military obligations and the Legal Status of Military Officials. In the article 12.5 of this law it is stated that “Mongolian citizens of 18-25 years old of the military second level responsibility due to the religious, moral and other reasons justified in the law shall have rights to substitute the military service. The citizens wishing to substitute the military service can serve at the emergency response organizations, rescue units and branches, border service supporting force and humanitarian organizations. The period shall be 24 months. The government shall reserve the right to extend the period up to 3 months due to the disaster mitigation immediate measures, border security mandatory requirement”.

132. The law states that the government shall determine the limit for number of citizens eligible to be in alternative civilian services in lieu of military services which is regulated by the resolution #49 of 2008 of Mongolian Government.

**Article 19. The right to hold opinions and to freedom of expression**

133. The article 16.16 of the Constitution states that “Mongolian citizen shall have a right and freedom of expression of opinion, speech.”

134. In 1998 the Law on Media Freedom was approved and in the article 1 of the law states “...to set forth the Constitutional rights of freedom of expression, right to speech, press”, article 2 “prohibit from passing any laws restricting the freedom of media, and freedom of media instruments”, article 3.1 “no control/censorship/ from the state of the content of public media”, article 4 “prohibiting the state institutions to have media at their disposal”.

135. Within the framework of implementation of this law all media at disposal of the state central and local administrations were dissolved and privatized finally in 2005 “Public Broadcasting Radio Television Law” was approved and this media was separated from the government jurisdiction and received the public status.

136. However, the freedom of expression and speech is restricted by the law in terms of protecting interests of the state security, social order, health, moral, other person’s right, reputation, and if subject while exercising the right of expression and speech violated other person’s right, wrongly accused, humiliated and spread false information shall be subject of legal actions and liability which are regulated by the law.

137. Moreover, the Government of Mongolia has reflected in its programs the certain goals of improving the legal environment of media and are working on the implementation. For example, in order to ensure the article 16 of the Mongolian Constitution stating “the right to seek and obtain information” the government is developing the draft law on Media freedom. The law defines the relation of providing information except the information on the state secrecy and personal privacy and regulates relations of the journalists right to protect and hide the information source and increases the opportunities for obtaining the information.

**Article 20. Any propaganda for war and any advocacy of racial discrimination to be prohibited**

138. The article 10.1 of the Mongolian Constitution states that “Mongolia shall adhere to the universally recognized norms and principles of international law and pursue a peaceful foreign policy”.

139. Mongolian Parliament by the resolution # 56 of 30th of June 1994 approved the “Foreign Policy Concept”. The concept states that Mongolia maintains peace and adopts a policy of friendly relations with all countries, and shall not join any military alliance and commitment.

140. The revised Criminal Code states that the organized actions to destroy the national unity such as “People on the basis of ethnic origin, language, race, color, religion, ideology of hostility are exhorted, promoting, advocating the separatism, organizing activities discriminating, bullying and abusing, restricting the right or establishing preferences shall be fined from twenty four thousand settlement units up to sixty thousands of settlement units or shall be punished by imprisonment for a period equal from five years up to twelve years.”

141. The Constitution of Mongolia prohibits the discrimination of people on the basis of nationality, language, race, color, age, sex, social status, wealth, occupation, position, religion, political prohibit, education and proclaimed the rights of national minorities with different customs, languages, culture to learn their mother tongue, communicate, organize

cultural, art, science events which is important to ensure the unity of the nations residing in the country.

### **Article 21. Right of peaceful assembly**

142. According to the Mongolian Constitution citizens have right and freedom of peaceful assembly. The procedure of assembly was regulated and approved by the law in 1994. The goal of the law is to ensure the Constitutional freedom of citizens of peaceful assembly, establish procedures for the assembly, regulate relations to provide social order, citizens' safety during such events and it was discussed in the earlier 4<sup>th</sup> report in detail.

143. The freedom of expression and freedom of speech of citizens are closely linked with the right of peaceful assembly; those rights cannot be exercised without one another and are interrelated.

144. Therefore, based on the changes in the social relations the Government made amendments in the regulations providing the permission for assembly in streets and on squares and in order to have registration procedure in place the procedure on "Draft Law on the revision and amendment of procedure on assembly" was developed and presented it to the parliament which was approved on 17<sup>th</sup> of November of 2005.

### **Article 22. The right to freedom of association with others**

145. In Mongolia the civil society, organizations and representation are executed by non-government organizations which are established and operate according to the "Law on Non-government organizations" approved in 1997. Based on the rights to freedom of association these organizations are established for the purpose of serving its members and society, register with state registering bodies and legitimate to void the taxes as their activities are considered as non-profit. Currently in Mongolia there are 20,862 nongovernmental organizations running various activities.

146. The Law on Political Parties was revised and approved in 2005 which defined the principles and procedures of establishing political parties, registering the parties, stopping activities and dissolving.

147. In the law on Political parties the Party is according to the Constitution of Mongolia is established on voluntarily basis for social interests, individual ideas, with the purpose of political activities and it is an association of Mongolian citizens. As stated in the law on Registration of Legal Subjects the article 7.1.6 "Political party is registered with State Supreme Court", thus the State Supreme Court registers and provides certificate. Currently there are 24 political parties are registered and exercising their rights.

### **Article 23. State protection of the families**

148. In the article 16.11 of the Constitution it states that "...Marriage shall be based on the equality and mutual consent of the spouses. The State shall protect the interests of the family, motherhood and the child..." This provision is reflected in the Family Law and other legislations and implemented accordingly.

149. Police discussed the issue of the potential unit to fight the domestic violence and following the resolution of the head of General Police Department has established a new division on "Preventing the Domestic Violence and Crime against Children" with 32 positions and it is currently in operation.

150. In addition the Center of Child Protection and Determination of Residency under to the Capital City Police Department was dissolved; its duties were redirected and renewed as “Temporary Protection Shelter” to protect citizens and victims affected by the domestic violence since 28<sup>th</sup> of February 2014.

151. “Temporarily Protection Shelter” receives 24 hour information and calls by following lines 70122602, 93022570, 94301666, 89535007, 96549395, 107 from citizens and welcomes citizens affected by the domestic violence and put them under protection, where professional psychologists and social workers provide and offer consultations and other required services.

152. As of April of 2015 since the establishment of the temporary shelters 287 families and in total 456 individual clients received related services, out of which there were 2 adult men, 144 women, 188 boys and 122 girls.

153. Furthermore, to provide protection to the domestic violence victims the research is being conducted to establish “Temporary Protection Shelters” in the local areas.

154. Since 2013 in aimags and the capital city the Legal Aid Centers for citizens have been active and are offering legal consultations, information and providing defenders services to victims of violence, the work is organized by the police jointly with local public and administrative organizations. In addition local police departments and divisions jointly with the international organization “World Vision- Mongolia” and Mobicom Cooperation are operating a “Child Helpline” to prevent domestic violence, crime against children and providing legal consultations since 2012.

155. In order to improve the legal environment for protection of domestic violence victims President of Mongolia initiated the revision of the Law Combating Domestic Violence and presented it to the parliament for the approval.

156. In addition in the revision of the Police law the detailed regulation and procedures to follow during the domestic violence case is reflected.

157. The revised “Procedure on Combating Domestic Violence” for the Police was developed and in full force aiming to ensure the implementation of the Law Combating Domestic Violence, to provide support to the police to prevent, to interrupt, to discover domestic violence cases and to provide temporary protection to the victims of domestic violence.

#### **Article 24. State, social protection of children rights**

158. The policy document on Strengthening the child protection (2010-2015) aiming to develop prevention and protection system of child neglect ion, abuse, child labor exploitation was led by the Prime Minister of Mongolia at the National Council for Children and was adopted in 2010 and currently the implementation plan is underway. To ensure the strategic implementation the Government allocates annually on average 400-500 mln MNT since 2012.

159. The National Program on Elimination of the Worst Forms of Child Labor of 2011, the Child Development program “ Step by Step” of 2013 were adopted and implemented. There are in total 428 laws in force out of which around 60 laws and 350 provisions are related to the children, children rights. In order to improve the national legislation regarding the children in accordance to the Child Rights Convention ideas and principles the draft laws on Child Rights and Child protection were developed and finalized and are currently

at the approval stage. In these draft laws the regulation of a child labor; in the revised draft Labor law<sup>1</sup> the regulation prohibiting labor of persons under 15 years old and in the revised draft Family Law regulation of legal environment for the adopting the child is reflected according to the international treaties and agreements.

160. Mongolia is working on the ratification of Optional Protocol to the Convention on the Rights of the Child Reporting procedures. In 2012 NHRC has approved a resolution on the receiving complaints, applications from children, its distribution and resolution. From total number of complaints and claims received from children and adults on child right issues by NHRC: 6 matters were resolved in 2010, 10 matters in 2011, 10 matters in 2012 and 12 issues in 2013.

161. There are certain amount of child abuse and physical punishment in the hidden form, in such cases the Child Help line is in operation to establish common system to discover such activities, register and provide protection. The child helpline is 108 and it is free, 24 hour service registering in detail the reports from citizens, organizations on child rights violation and conducts risk assessments. The helpline by of the end of 2013 received in total 42,946 targeted calls and provided related services. The child help line is the activity to establish case based service system as recommended by the Child Organization. The financial aid is provided to the project since 1st of June, 2014 for 3 years period jointly by Mobicom and World Vision international organization.

162. Starting from 2012 MNS6264:2011 standard on the requirements for safety clothing for children riders, horse wear at the national horse racing was implemented which led to the certain achievements in terms of protection of rights of children riders, however many issues of concern still exist .

163. The government adopted in 2011 the National Plan of 2012-2016 on Elimination of the Worst Forms of Child Labour, it was developed with the support by the International Labour Organization. The program is in compliance with principles of international treaties ratified legislations regulating child labor and aims to build the capacity of the related law enforcement organizations and enhance the access to health, educational, social services for children in the worst forms of child labor and employed children. As of 2013 there are 93,968 children occupied in some form of labor out of which 10,398 children are engaged in the heavy form of labor.

164. The number of specialized labor inspectors was increased with the purpose to improve the monitoring of child labor situation and in 2009 the methodology of child labor inspection was ordered to be developed on the national level. According to this methodology in 2012 the public labor inspectors conducted the inspection in the organizations and entities and discovered 1012 children occupied in some form of labor and the necessary measures were taken according to the law.

165. Employed children have limited access to social, specifically designed services. Non-government center providing day time services for working children started its activities in 2010, however due to the shortage of the budget and financing at the present it could reach only few children.

166. Within the framework of National Workforce Development Program of Central Labor Exchange between 2013 and 2014 altogether 81 children and youth between ages of 16-18 were involved in the professional development trainings. In addition Family and

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<sup>1</sup> The bill is classified as primary or revised. The first regulation of certain social relations is the primary, but the change in the existing regulations and when changes are made in more than 50 percent of the regulation it is understood as the revised draft.

Child Development Agency between 2012 and 2013 involved 180 children of 5-17 years occupied in the voluntarily labor in the socializing trainings.

### **Article 25. The right to take part in the conduct of public affairs**

167. There are 11 women Members of the Parliament out of total 76 residing in the parliament; the Parliament Women Coalition was established and is running.

168. Political parties are working to reflect 20-40 percent representation of women in the administrative decision making organizations and levels in their party charters. For example: Democratic Party National Consultative Committee consisting of 154 members shall allocate 51 seats to women, 20 percent of Mongolian People's Party and the governing council are to be women and the Civil Will Green Party's 50 percent of Board members are reflected by the quota to be women.

169. Implementation of the article 10 of the Law on Promotion of Gender Equality on quotes ensuring the equal rights of gender on the decision making levels of public, local public organizations and entities is being monitored.

170. Parliament has started working on the amendments in the Law on Political Parties to ensure transparency of party funding, and as well in the draft Law on Election shall monitor election funding and media restriction and to ensure the short listing of women candidates by prioritizing it with power key basis.

171. The Article 10 of Law on Promoting Gender Equality defines up to 15-40 percent of representatives on the public central administrative organizations and local administrative organizations to be women.

### **Article 26. Prohibition of discrimination**

172. All persons lawfully residing within Mongolia are equal before the law and the court as stated in the Mongolian Constitution, article 14.1 and the rights and duties of the foreign citizens on the territory of the country are defined by the Law on Status of Foreign citizens and agreements signed with the foreign citizen's country. According to the international agreements the rights and duties of the foreign citizens are defined to be on the equal principles with the country of the particular citizen.

173. As for the foreign citizens and stateless people there are cases of restricting their political rights. For example, it is prohibited from engaging in the following activities within the territory of Mongolia: directly or through a representative institution to participate in the State affairs, to be elected or elect in the public organizations, to participate in the public polls, to work as a public officer, to establish political organizations, to be member of or participate in any form in political activities, to work in premises legally specified as of vital importance without the government permission /Law on Legal Status of Foreign Citizens, article 10/.

174. The following standards defining working environment, property, equipment of security personnel of the Court Decision Enforcement organizations, technical and safety indicators, general requirements necessary to perform the daily duties of prison staff to ensure the isolation of the culprit from public, prevention and repression of potential criminal acts and attacks as well as communication standards between detainees and staff were developed and are being implemented.



- “Operational standard of detention and prison staff” /CS 11-0233:2013/
- “Standard on working condition, environment, equipment and materials of Court Decision Enforcement Agency security officers and staff” /CS 11-0234:2013/
- “Detention and enforcement standards of prisons to ensure the inmates rights” /CS 11-0238-2013/ The project was delivered to the organizations such as General Prosecutor’s Office, National Human Rights Commission and Amnesty International, their recommendations and comments were reflected
- “Operational Standard of central hospital of Court decision enforcement department” /CS 11-0235:2013/
- “Operational Standard of prison hospital” /CS 11-0237:2013/
- “Specialized tuberculosis hospital structure, operational standard” /CS 11-0236:2013/
- “Detention hospital structure, operational standard” /CS 11-0234:2013/
- “Prison, enforcement agency psychologists’ cabinet standard” was approved and delivered to detention, prison agencies

### **Improvement of working conditions**

175. Ovorkhangai aimag Kharhorin soum’s detention center of Court Decision Enforcement Agency is relocated to the protected area # 423.

176. Bulgan aimag Enforcement agency detention facility for 50 culprits with 16 detention rooms was built by the income of Court Decision Enforcement General Agency equal to 272 mln MNT. In addition, Orkhon aimag detention facility for 250 culprits was built and become operational.

177. As of October 3, 2014 in Dornod, Uvs, Dundgobi aimags the construction works of detention centers have started and in process with 40-45 percent completion.

### **Article 27. Rights of minority**

178. Article 14 provision 2 of Mongolian Constitution states that “No person may be discriminated on the basis of ethnic origin, language, race, age, sex, social origin or status, property, occupation or post, religion, opinion, or education. Everyone is a person before the law” which is the expression of prohibition of any types of discrimination in Mongolia. The above Constitutional ideas are reflected in the main laws regulating the social relations.

179. As for the educational rights the Constitution of Mongolia states in the article 16.7 “The right to education. The state provides basic general education free of charge. Citizens may establish and operate private schools if these meet the requirements of the State” which is without prejudice to the right of national minority population to learn, communicate, and organize events activities of cultural, art, scientific nature in their native languages.

180. In Mongolia as of 2015, there have been no cases registered of genocide and apartheid, discriminatory actions based on the skin type and nationality.