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FOREWORD

In conformity with the provisions of the Law of Mongolia on the National Human Rights Commission (Article 20.1) the present Third Status Report on Human Rights and Freedoms in Mongolia has been submitted.

The Standing Committee on Legal Affairs of the State Great Khural held a hearing on the second report of the Commission and approved the conclusions made and the proposals delivered, and charged the Commission with providing further recommendations and opinions on the compatibility and consistency of legislation with basic human rights principles, and to effectively monitor the actual implementation of legal acts. The advice and directions from the Standing Committee on Legal Affairs of the State Great Khural were considered while preparing the present report.

Chapter One of the report deals with the implementation of selected human rights, including the status of freedom to demonstrate peacefully and freedom of assembly; land ownership and possession rights the right to live in a safe and healthy environment and to be protected from environmental pollution and destruction of ecological balance; the right to compensation for damage caused by illegal actions, and human rights issues related to labor rights.

Chapter Two has a specific focus on human rights of vulnerable social groups. Although the topic was covered in the previous second report (2003), the Commission recognized the need to further examine related issues. In the present report much attention has been paid to the review of legislation concerning vulnerable groups, their situation, resources and access to social services. Issues surrounding the implementation of the human rights of national minorities (*Tsaatan*, or the reindeer tribe) have also been dealt with in this chapter.

Chapter Three reviews contemporary human rights challenges related to law enforcement institutions and human rights, and discrimination in the workplace.

Comments and deliberations arising from public hearings related to the two previous status reports, and raised during the parliamentary hearing, as well as suggestions and recommendations from national and international scholars, analysts and practitioners, were brought together in the preparation of the present report.

THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

CHAPTER ONE: STATUS OF THE IMPLEMENTATION OF SELECTED RIGHTS

1.1 The Status of the Freedom to Demonstrate Peacefully and Freedom of Assembly

Detailed research on the freedom for peaceful demonstrations and assembly in Mongolia, and on its legal framework, has not been undertaken in previous years. The baseline study on the human rights situation in Mongolia conducted in 2001, performed within the framework of developing the NHRPA, made some comparative studies and assessments of the relevant legislation (*“Baseline Study on the Human Rights Situation in Mongolia”, Ulaanbaatar, 2001. page 33*).

Public debate on the implementation of this freedom has grown in recent years. Some demonstrations and protest marches were organized without appropriate authorization and some even disbanded by force.

Another notable fact is that several attempts were made by individuals and political movements to demonstrate in Sukhbaatar Square in the capital city – an action prohibited by current legislation.

The implementation of the right to freedom of expression and opinion is inextricably related to the freedom to demonstrate peacefully and freedom of assembly; these rights complement each other and are not able to exist independently.

The National Human Rights Commission has conducted a study to determine the status of the freedom to demonstrate peacefully and freedom of assembly, analysing all events that occurred in the period 1989 to 2003. The study compiled empirical data from most provinces (18 Aimags), and concentrated on the review of laws and regulations associated with the legal framework.

The research team collected vital information from resolutions of Citizen’s Representative Khurals; Decrees by Governors of some districts; judicial decisions of the Chingeltei and Sukhbaatar Districts in Ulaanbaatar; media reports and other sources related to demonstrations, rallies, hunger-strikes and industrial action.

1.1.1 On July 07, 1994, the State Great Khural adopted the “Law on Procedures for Demonstrations and Assembly”. The law includes 15 articles. Amendments were introduced on July 17, 1995. The present act legalizes matters and associated relations within the following three objectives - to (a) ensure the constitutional civil right to demonstrate peacefully; (b) set up procedures for demonstrations and assemblies, and (c) to provide public order and security during these events. However following actions are not included in the law:

- a) State ceremonies and demonstrations organized by public authorities;

- b) Sports, cultural and artistic events, public celebrations or comparable actions organized by individuals or organizations which are associated with a cause other than politics, civil, economic, and/or human rights and freedoms;
- c) Assemblies and gatherings organized by public, political or civil society organizations with citizens, electorates, members or sympathizers;
- d) Meetings and gatherings organized by business entities or employees related to the operations of that entity or other associated activities.

The reason for not including the above actions within the scope of the Law on Procedures for Demonstrations and Assembly is simply that they do not encompass an objective related to political, social and economic issues, or human rights and freedoms.

It should be noted that the present law prescribes obtaining authorization for any demonstrations and assemblies; however article 5.1 excludes such authorization for demonstrations organized by public agencies. This concession amounts to a breach of the Constitutional principle (article 1.2) relating to the “*equality*” of functioning of state agencies.

According to the law, authorization is granted by a soum or district governor (article 9.1), and the decision made on an application must be advised to the applicant within 6 working days (article 9.3). However, the law does not specify how long before organizing a demonstration an application has to be lodged.

From the above, it can be seen that the civil right to demonstrate is ultimately at the discretion of a soum or district governor. Yet, in most cases, this civil right serves not only to inform the general public on political, social, economic or human rights concerns, but also to appeal for and demand change and to criticize or protest against policies and actions of the government-of-the-day. Thus the provision in the law that the holder of a political post (soum governor) issues authorizations for demonstrations should be revisited urgently.

If the amendment to the legislation still favors an authorization system then the granter should be a holder of a non-political post, for example the holder of a special administrative post or, even better, a judge. In fact, the best scenario for the legislative reform would be to change to a registration system whereby the applicant simply informs the authorities about the timing and objective of the upcoming event. The following concerns were revealed as a result of examining the authorizations and refusals granted within the metropolitan area to date.

Resolution 31 of the Presidium of Metropolitan Civil Representative’s Khural, issued on 15th April 1998, adopted the “Procedures for Organizing Sports, Cultural, Artistic, Ceremonial or Comparable Events at Capital City Streets and Squares”. In essence, this procedure regulates legal matters related to three situations not covered by the Law on Procedures for Demonstrations and Assembly (1994), and which are specified in articles 5.2, 5.3 and 5.4.

Thus a governor may issue authorizations under two different legal acts, namely under article 9 of the Law on Procedures for Demonstrations and Assembly, and under the provisions of Resolution 31 of the Presidium of the Metropolitan Civil Representative's Khural.

The governors of Sukhbaatar and Chingeltei districts of the capital city issued refusals on 21 applications for demonstrations during the years 1998-2003. The research team doubted that all of these decisions were properly justified. The following two cases illustrate that the decisions of the governors' offices were, indeed, arbitrary.

The Mayor's Office refused an application by the Democratic Youth Union to hold an opening ceremony for their student march in Sukhbataar Square. The refusal was aimed at "prohibiting any events at the Square during the Presidential Elections". In another case, the "Student Project - National Center" NGO was declined an application to hold a protest march at the Mongolian Youth Union square at 2 p.m. on the 23rd of March 2003 involving approximately 400-500 student-protesters. The refusal was issued on the 22nd of March. The reason given was that "the petition was not submitted in a timely fashion". However, the Law on Procedures for Demonstrations and Assembly does not specify any time limits for lodging an application.

1.1.2 The research conducted by the NHRCM has established that a total of 165 applications for organizing demonstrations were filed with the Governor's Offices of Sukhbaatar, Chingeltei, Bayangol and Khan-Uul districts during 1998-2003. Of these applications, 141 were approved and 21 denied. The outcome of the remaining three applications was the office failed to reply on one, and the two other applicants failed to reply to further clarifications sought by the office.

During this period three unauthorized demonstrations took place in the capital city, two of which were disbanded by force. One was disbanded in accordance with Order 327 of the Sukhbataar District Governor, issued on the 12th November 2002. The Order states that "although several warnings about the breach of the provisions of the Law on Procedures for Demonstrations and Assemblies prohibiting demonstrations to be organized at Sukhbataar Square were given to the organizers of the event, the Mongolian Democratic Union, who were holding a protest march using agricultural equipment and mechanisms starting from the 5th November 2002, the organizers did not respond to the warnings. In accordance with article 14.3 of the Law, the Office hereby orders that appropriate measures be taken to disband the illegal demonstration starting from 19:16 p.m. on 12th November". The other decision to disband a demonstration by force was issued on the 30th of November 2003 when around 800-900 students of the State Agricultural University were involved in a rally to protest to the Mayor's Office and the Metropolitan Traffic Authority about leaving more than 1,500 students of the University without travel concessions on public transport due to shortage of discount cards.

It should be mentioned that, although article 14.3 of the Law charges "the police to disband a demonstration by force", the exact procedures to be followed have never been specified.

Procedures for using special techniques and tactics are set out in the Law on the Police (1993), but these do not specify procedures for the disbanding of demonstrations.

Statistical Data on Peaceful Demonstrations held in the Capital City from 1998-2000

	Issuing Authority	Number of Applications	Outcome			Unauthorized Demonstrations
			Approved	Refused	Other	
1.	Mayor's Office	58	50	8		
2.	Sukhbataar District	53	47	6		1
3.	Chingeltei District	51	41	7	3	
4.	Bayangol District	1	1			
5.	Khan-Uul District	2	2			1
6.	Bayanzurkh District					1
	Total	165	141	21	3	3

Statistical Data on Peaceful Demonstrations held in the Aimags during 1998-2000

	Aimag	Number of Organized Events	Including			Number of Demonstrations Refused by Local Authorities	Demonstrations Disbanded by Force	Venue
			Authorized	Unauthorized	Held During 1989-1991			
1.	Tuv	16	13	2	1	2	2	Square of Fame
2.	Sukhbataar	7	3	-	4			Sukhbataar Monument Square
3.	Bulgan	5	3	-	2			- Lkhavagdorj Square - Khandorj Square
4.	Omnogobi	51	50	-	1			- Bor Square - Demuulen Square
5.	Darkhan-Uul	3	1	1	1			Friendship Square
6.	Dorno-Gobi	1	1					Central Park
7.	Bayanhongor	6	5	-	1			Baganat Square
8.	Bayan-Ulgii	17	15	2	-	2	2	Partisan Square
9.	Zavkhan	6	5	-	1			MPRP Building
10.	Arkhangai	20	20	-	-			Demid Warlord Square
11.	Dornod	2	-	1	1			Youth Square
12.	Uvurkhangai	2	2	-	-	2		Hero Ayush Square
13.	Dundgobi	3	-	-	3			Sukhbataar Square

14.	Khovd	2	1	-	1			Hero Ayush Square
15.	Selenge	12	10	2	-			Partisan Square
16.	Khuvsgul	2	1	-	1			S. Davaadorj Square
17.	Gobi-Altai	4	-	-	4			-
18.	Uvs	1	1	-	-			Yu. Tsedenbal Square
	Total	160	131	8	21	6	4	

1.1.3 The findings indicates that in most cases it was the Chancellor of the Mayor’s Office who replied to almost all petitions for organizing demonstrations in the city, and with only one document (1/25359) on refusing authorization signed personally by the Mayor on the 24th April 2002, whereas outcomes of applications for local demonstrations were signed by district governors. Provisions 1 and 3 of article 9 prescribe that the decision on the outcome for a petition should be made, and thereafter replied to in writing, (article 10.1) only by the Mayor or the Governor. However almost all of the refused petitions were signed by the Chancellor of the Mayor’s Office, a practice has been accepted by both parties.

Another fact worth mentioning is that most refusal documents lack any rationale or legal basis for disapproving a petition to organize a demonstration.

1.1.4 Article 6 of the present law prohibits any persecution, restriction of personal freedom and discrimination for participating or organizing an authorized demonstration as well as interrupting or disbanding a lawful demonstration. Furthermore, article 15.10 provides that “the state shall bear all responsibility for damages caused to organizers, participants, organizations and citizens by the illegal disbanding of a demonstration and/or for the unlawful refusal of a petition for organizing a demonstration”.

Article 15.1 provides for “monetary sanctions without criminal punishment to individuals who intentionally disrupt an authorized demonstration, or persecute, restrict personal freedom or discriminate against participants of a demonstration”. The following three cases attracted the attention of the research team which reviewed administrative cases at district courts of Chingeltei (1994-2003) and Sukhbaatar (1992-2003).

- On June 16, 1994, Chingeltei District Court had fined two offenders G and S, female sewers, and members of the Free Trade Union, MNT 2,000 by considering them as instigators of an illegal industrial action at Temujin Mench apparel factory on the 6th of May, 1994;
- The same court imposed a 7-day imprisonment on citizen A on June 12, 1998 under article 21 of the Law on Administrative Sanctions for his inappropriate behavior while intoxicated to strikers at Sukhbataar Square, and for hitting citizen B, on the 11th June 1998;
- On December 02, 2002, the Sukhbaatar District Court ruled on administrative case 1059 submitted by the Sukhbataar Police Department against citizen B, leader of the “Fair Land Privatization Movement”. The Court decided to punish citizen B with a fine of MNT 25,000 in accordance with article 15.3 of the Law on Procedures for

Demonstrations and Assembly, considering that the “Fair Land Privatization Movement” had breached article 7.2 of the law by organizing an illegal demonstration at Sukhbataar Square on the 12th November 2002.

The Criminal Law, effective from 1st September 2002, includes provisions for “restricting freedoms for demonstration and assembly” (article 321). The article provides for criminal sanctions in cases when:

- authorized demonstrations are intentionally interrupted;
- participants of a demonstration are discriminated against, persecuted or have their personal freedoms restricted in any other manner.

Article 8.6 of the Law on Procedure for Demonstration and Assembly declares that “instigating hunger strikes at streets and squares are inhumane actions ignoring the physical and medical well-being of citizens”, and article 15.4 provides for the “punishment of organizations, individuals and officials for instigating or organizing hunger strikes in streets and squares”.

Individuals have the right to express their opinions in many different ways, one of them being to go on a hunger strike. Hunger strikers should not be prohibited from prompting sympathizers to join their cause through organizing or participating in such a strike.

However, individuals should not be paid, threatened, oppressed or forced in any other way to participate in a hunger strike. These two situations should be dealt with differently in the law.

In general, the public disapproves of article 11 of the Law which prescribes responsibilities for organizers of demonstrations. The article imposes on organizers of demonstrations a duty, which ought to be the sole responsibility of the state, to provide public order and security as well as ensuring that alcoholic beverages are not consumed during the event. It is no exaggeration to say that this provision puts immense pressure on the freedom of demonstrators to exercise a basic right. Indisputably, keeping public order and security during demonstrations should be the sole responsibility of specialized agencies of the state.

1.2 Status of the Right of Land Ownership and Tenure

The revised Law on Land and the Law on Land Ownership by Mongolian Citizens were adopted in 2002.

The Law on Land Ownership by Mongolian Citizens was adopted more than ten years after the Constitution had guaranteed the right to land ownership. The following legislation regulates issues concerning land matters:

- Article 102, Chapter 10 of the Civil Code (2002)
- Law on Land (2002), revised text
- Law on Land Ownership by Mongolian Citizens (2002)

- Law on Procedures for Administering the Law on Land Ownership by Mongolian Citizens (2002)
- Law on Land Rent (1997)
- Law on State Registration of Property Ownership and Other Related Rights (2003), revised text

While the Constitution declares that Mongolian citizens may own land, article 5.1.4 of the Law on Land Ownership by Mongolian Citizens states that “joint land title rights may be granted free of charge on a one-time basis for use in accordance with article 4.1.1 of the present law to a citizen and their family members who are also citizens of Mongolia”. This restriction (extending free land title rights only to registered couples) has been criticized as a breach of the civil right to land ownership. As a result, this and other provisions of the Law have resulted in numerous complaints being lodged with the Constitutional Court.

On July 19, 2002, four citizens submitted a complaint to the Constitutional Court asking it to verify whether provisions 5.1.4, 20.1.1 and 20.3.2 of the Law on Land Ownership by Mongolian Citizens, adopted on June 28th 2002, were in breach of article 6.3 of the Constitution. The complaint also asked the Court to rule whether the provisions 1, 2 and 3 of the Law on Procedures for Administering the Law on Land Ownership by Mongolian Citizens were in breach of provisions 1.2, 6.3, 14.1 and 14.2 of the Constitution of Mongolia. However, on October 4th 2002, a member of the Constitutional Court issued Decree 25 refusing to review the complaint on the ground that the complainants had failed to state clearly the grounds, circumstances and evidence supporting their claim.

Shortly after this incident a second similar complaint was lodged with the court. The Small Chamber of the Constitutional Court had issued Decree 2, dated 11th April 2003, refusing once again to review the case, reasoning that the applicants had not provided reasonable grounds, other circumstances and supporting evidence, that they lacked a clear understanding of the issue in dispute, and that they had submitted uncertain requirements to the Court.

1.2.1 The term **citizen** represents, first of all, the national identity of a person and at the same time indicates the legal age of that person. The official document proving citizenship is the civil identification card of Mongolia (article 22, Law on Civil Registration) whereas ID cards are issued to persons over the age of sixteen. Thus the term “**citizen**”, in article 6 of the Constitution, represents a physical person. Furthermore, the constitutional term “citizen of Mongolia” is obviously related to all and everyone, and not to a limited group of people, e.g. married couples. The right to own the land is one of the fundamental constitutional rights of every Mongolian citizen.

Based on the above analysis, article 5.1.4 of the Law on Land Ownership by Mongolian Citizens narrowly defines those who can own land as **citizens and their family members**, thus putting certain limitations on the term **citizen**, who is guaranteed with land ownership rights.

The expression “**citizens and their family members**” in the Law on Land Ownership could be seen as a legal mechanism reflecting the type of ownership. The specification for “joint” ownership promotes the concept that the land granted under title rights should be used for family needs. The petitions lodged earlier with the Constitutional Court had raised concerns that article 1 of the Law on Procedures for Administering the Law on Land Ownership (2002) – stating that “for the purposes of granting title rights for family use on a one-time basis free of charge, the status of the civil marital registration of Mongolia shall be effective as of the date of adoption of the Law on Land Ownership” – does not define the “**citizen and its family members**” model as a type of ownership but rather requires that the person entitled to free land ownership rights should be in a legal marriage, which is in breach of the constitutional provision declaring that every “citizen shall have the right to own land”.

Although legislation could specify any type of ownership, such legal mechanisms should not restrict in any way the enjoyment of the right to for land ownership by anyone.

The term “family member” – an element in the Law on Land Ownership by Mongolian Citizens – is defined in the Law on Family as follows:

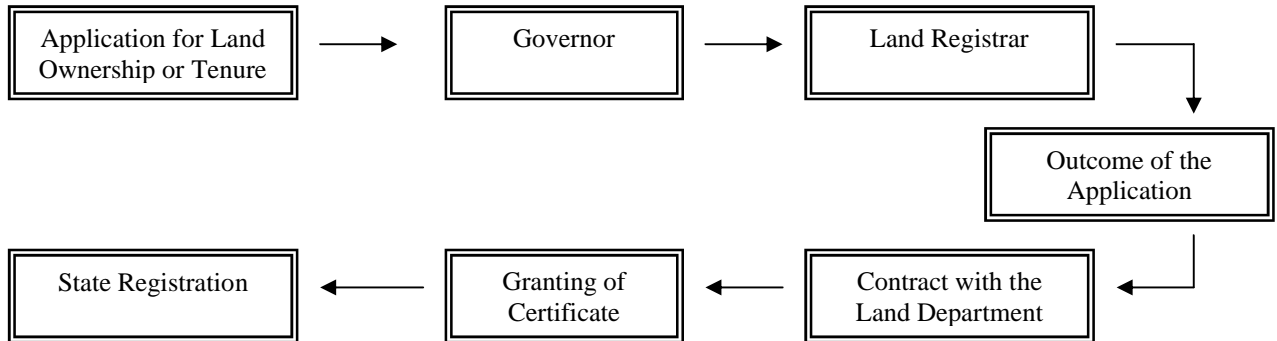
- “**Family**” - family members living collectively, sharing personal and property rights and duties, created as a result of marriage (article 3.1.2)
- “**Marriage**” – registration by the state-authorized organization of a man and women of legal age for the purpose of getting married on a voluntary, free will and equality basis (article 3.1.1)
- “**Family member**” - bridal couple, their own, in-law and adopted children and other relatives living with them (article 3.1.4)
- “**Bridal couple**” - wife and husband having equal rights and duties, wedded by marriage (article 3.1.3)

The legal definition of family in the above law always refers to the relationships between a man and a woman, and, in broad terms, citizens could be divided according to their marital status as (a) married and (b) single. However such division is not made in the constitutional term for a “citizen”.

1.2.2 Article 3 of the Law on Land Ownership resolves the issue of allocation of the one-off free of charge land title rights in the following manner:

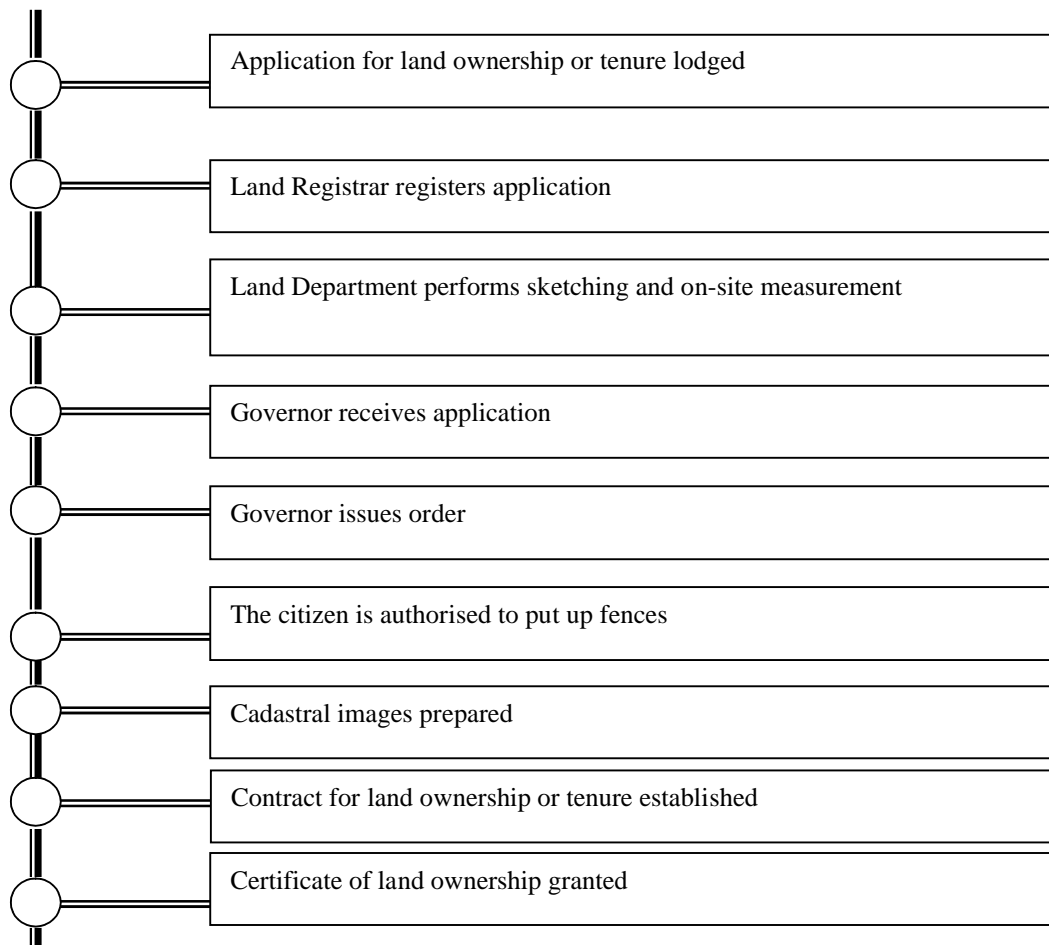
1. citizens registered in the capital city may claim land ownership rights in the territory of any province or soum or in the capital (article 3.1)
2. citizens registered in Darkhan or Erdenet cities may claim land ownership rights in the territory in which they reside or other provinces and soums, except the capital city (article 3.2)
3. citizens other than those indicated in provisions 1 and 2, may claim land ownership rights in the territory of all provinces and soums, except the capital city, Darkhan and Erdenet (article 3.3)

1.2.3 The Commission has reviewed all stages and sequences in the granting process that has to be undertaken in order to enjoy the right to land ownership. According to the Law on Land physical and legal persons should follow the following steps in order to own, rent or utilize land.



The above scheme depicts the 7 straightforward steps intended to enable smooth processing of an application. However, in the real world things tend to get a little more complicated.

For Physical Persons



○ Title rights registered at the state registry

For Legal Person

○ Application for land ownership or tenure lodged

○ Land Registrar registers application

○ Land registrar and land department specialist inspects the venue to:

- verify location and establish justification for the application
- examine engineering and other infrastructure systems surrounding the site
- check the 2020 land planning charts

○ Land department issues visa with the report on the inspection performed above

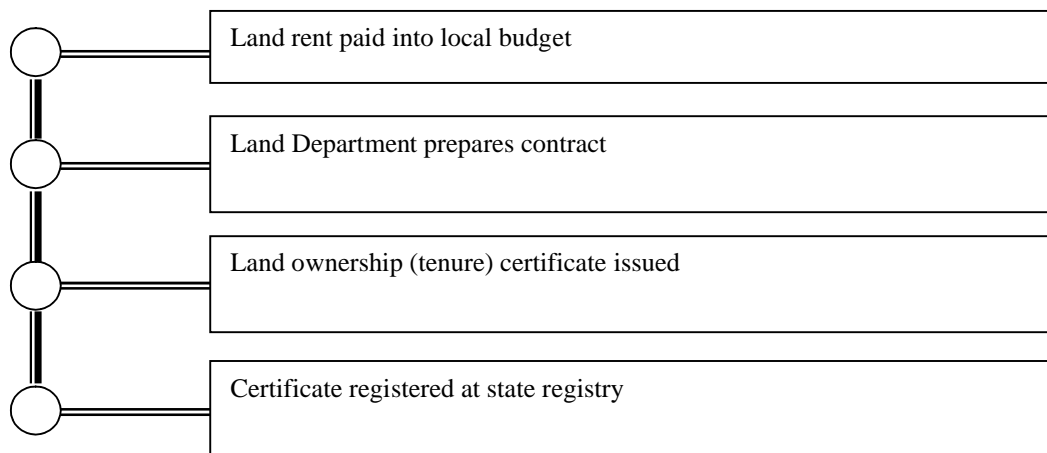
○ Land Department performs sketching and on-site measurement

○ Governor receives application

○ Governor issues order

○ Technical specification about the land compiled by obtaining signed authorisation from the following agencies:

- City General Architect
- State Professional Inspection Department Infrastructure Unit
- State Professional Inspection Department Environmental Unit
- State Professional Inspection Department Health Unit
- State Professional Inspection Department Fire Unit
- District Land Planner
- District Architect
- Water Management Department
- Electricity Network Department
- Heating Systems Department



1.2.4 The Law on Land does not specify time limits for reviewing applications from citizens or legal persons, creating unnecessary bureaucracy that overburdens the applicant. Provision 2.9 of the Procedure on Granting Certificates for Land Ownership and Tenure, adopted by Order 165 of the Chief of the Land Relations and Cartography Department on 5th May 2003, instructs the land department or registrar to process an application within 30 days for further submission to the governor. However, the time limits for the governor to make a decision fall outside the scope of this procedure. Further, the procedure establishes 15 days for the applicant to follow all the stages necessary to register the certificate with the state registry following a positive response from the governor’s office. In other words, 15 days are presumed to be sufficient for the applicant to compile all the technical specifications and to receive the certificate. In fact, the reality is quite different and the process drags on for a much longer period. For example, during interviews with focus group participants the “Barilga” construction corporation admitted that they had spent over 5 months simply clearing technical specifications.

Apart from the above period, article 34.2 of the Law on Land provides for the “citizen or legal person who has been issued with a grant for landownership or tenure to perform an environmental assessment of the site within 90 days”.

The total time needed for receiving a land tenure certificate can be illustrated using the following chart:

No	Action	Responsibility	Term
1.	Checking up the application	Land Department, Land	30 days

		Registrar	
2.	Deciding on application	Governor	Uncertain term
3.	Environmental assessment	Applicant	90 days
4.	Compiling technical specification	Authorized control agencies	Uncertain term
5.	Establishing contract, issuing certificate and registering at the state registry	Land Department, Land Registrar	15 workdays
6.			135 days + uncertain term

The average term for obtaining the certificate for tenure of land is approximately 4-5 months, considering that the time needed for clearing technical specifications and obtaining the governor's decision are uncertain. In comparison with the 30 day time limit for public agencies to review complaints from citizens, the 4-5 month period required to obtain a certificate for land ownership imposes an excessive burden on citizens seeking to exercise their legal rights.

1.2.5 Since the adoption of the Law on Land in 1994, the district courts of the capital city have settled over 65 cases in relation to land possession. The following chart illustrates the types of disputes resolved at district courts.

No	Dispute Type	Settled Cases	Percentage
1.	Remove from Land	13	21.3%
2.	Forcible Reallocation	32	52.4%
3.	Land Rent Payments	5	8.1%
4.	Invalidate Administrative Order	4	6.5%
5.	Issuance of Administrative Order	1	1%
6.	Establish Land Ownership Rights	4	6.5%
7.	Damage Compensation	2	3.2%
	Total	61	

One of the negative factors harming land relations is the short period of time allocated for land tenure. By the time the applicant compiles all necessary documents for registering at the state registry, the term of the contract for land tenure has expired. This leads to more cases filling courts.

1.2.6 An opinion poll on the issue of land relations, ownership and tenure was conducted among 250 residents of Bayangol, Songinokhairkhan, Sukhbaatar, Khan-Uul and Chingeltei districts of the capital city. More than half of the participants of the opinion poll (57.6%) had experience in engaging with administrative organizations on issues of land relations.

From the results of the poll it became evident that citizens are increasingly paying more attention to identifying information resources about land ownership in order to receive advice and get counseling in order to enjoy their rights.

On the question of constraints faced while making inquiries on land ownership, 4.8 percent of the participants answered that the service was charged for, 23.6 percent responded that they were asked to come at another time, and 28.4 percent complained about receiving only partial information.

Government Resolution 205 issued on the 17th September 2003 imposes charges for receiving archive references on land and cartography information. For instance, the resolution approves charges for copies of administrative orders at MNT 200 per page, certified maps at MNT 1,000 per page and illustrated information at MNT 2,500 per unit. High charges for obtaining certified land information causes even more trouble for the applicant.

The following responses were received during the poll when participants were asked for the reason for not obtaining land title rights:

- 14.1% - did not have sufficient time
- 21.2% - waiting for regulations on land taxes
- 13.2% - improper documents
- 21.6% - waiting for stabilization of issues surrounding land ownership
- 2.4% - don't want ownership rights

1.2.7. The process of land ownership in the capital city, Bulgan, Darkhan-uul and Selenge Aimags is illustrated below.

No	Locality	Number of families	Amount of land allocated for ownership in 2003	Land Owned as of Dec 31, 2003	Percentage of eligible families
1.	Ulaanbaatar city	129,252	4,586.05 hectares	768.78 hectares by 16,160 families	16.7%
2.	Bulgan	13,252	3,933.78 hectares	63.5 hectares by 127 families	1.6%
3.	Selenge	21,431	72,082.38 hectares	266.3 hectares by 670 families	0.3%
4.	Darkhan-Uul	14,961	1,962.95 hectares	41.36 hectares by 300 families	2.1%

1.3 Status of the Right to Live in a Healthy and Safe Environment and to Protection from Environmental Pollution and Damage to the Ecological Balance

The process of urbanization has accelerated over the last 30 years, with a growing number of cities and townships. Population statistics show that 1/3 of the total population resides in Ulaanbaatar city, and over 60 percent live in the central region including the Ulaanbaatar metropolis.

The abandonment of traditional ways of treating nature along with new habitual practices, overpopulated urban areas, obsolete city management and maintenance of harmful technologies has, in recent years, resulted in the rapid pollution of air, soil and water in the cities. This eventually violates the basic human right to live in a healthy and safe environment. The failure to utilize scarce natural resources properly leads to a degree of consumption of surface water and artesian spring resources, forest, soil and pastureland that exceeds any sensible limits.

The NHRCM recognizes the need to highlight concerns related to the right to a safe and healthy environment in this status report. Of course, studies under this topic require the involvement of specialized skills and the expertise of professional institutions and practitioners in the field. In fact, many reputable reports, policy recommendations and specific action plans were produced in recent years. However, there is a need to revisit these efforts with a human rights dimension, in order to give an appreciation by professional organizations and officials on the basic human rights behind environmental issues. This section of the status report is based on secondary research data from relevant professional organizations and practitioners.

Many laws have been adopted in the area of environmental protection, including the Law on Protecting Nature and Environment (1996), the Law on National Parks (1994), the Law on Water (1995), the Law on Forest (1995), the Law on Protecting the Forest from Fire (1996), the Law on Natural Plantation (1995), the Law on Plant Protection (1996), the Law on Air (1995), the Law on Protecting from Chemical Substances (1995), the Law on the Evaluation of Environmental Impact (2000) as well as the Law on Importing Hazardous Waste (2000).

1.3.1 Air pollution

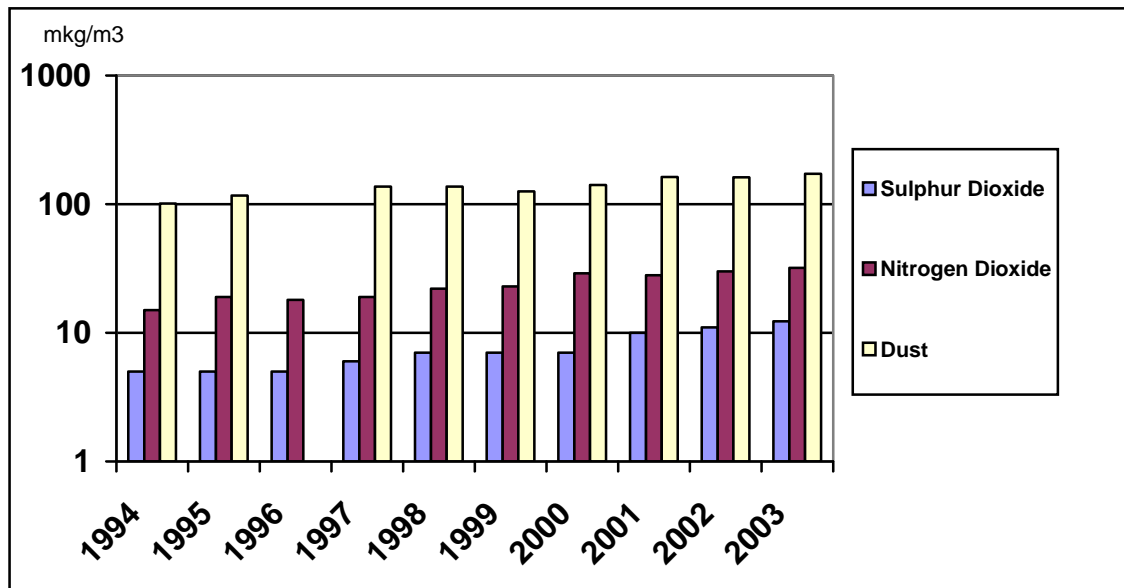
1.3.1.1 The air of Ulaanbaatar city is polluted mainly from the following three sources:

- a) thermal power stations;
- b) furnaces of ger districts and the smoke from the incomplete combustion of small steam boilers;
- c) automobiles and other vehicles.

Source: Environmental Status Report 2002

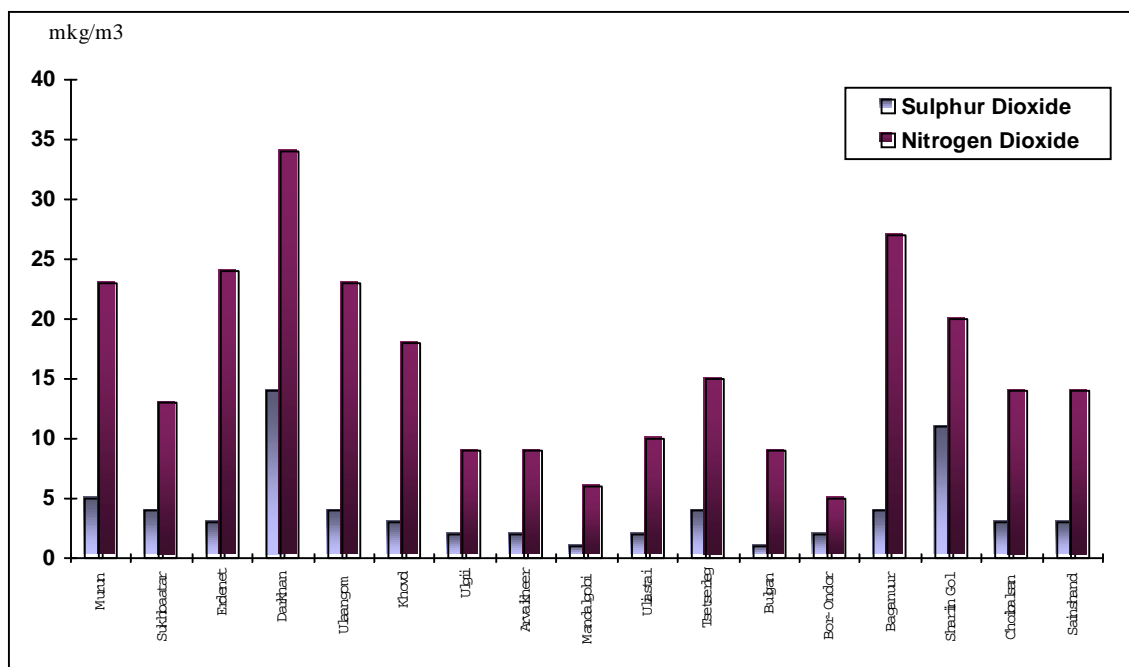
Air pollution level of the city is spread unevenly among the districts depending on the location of the pollution source, and the magnitude, composition and mixture of waste, topographic and climatic conditions. The smoke from ger districts, mainly located in the lower slopes of the surrounding hills, damages the environment greatly, especially the air in the city center along the low areas following the river valley. In winter, the smoke of ger districts is precipitated through the air current directed toward the downtown area from the suburbs.

The air quality of Ulaanbaatar city is monitored from four observation posts. The following chart depicts the change of air quality in recent years.



Source: Report from the Central Laboratory of Natural Science, 2003

1.3.1.2 Air pollution in 17 urban areas other than the metropolitan city is monitored by 19 observations posts determining the amount of sulphur dioxide and nitrogen dioxide in air. The following chart demonstrates the situation of air pollution in large urban areas in the year 2002.



Source: Report from the Central Laboratory of Natural Science, 2003

The average content of sulphur dioxide in the air was 1-14mkg/m³ and the maximum content 162mkg/m³, which was observed in Darkhan city. The normal average content of nitrogen dioxide in the air was 5-34mkg/m³ and the maximum 94mkg/m³, also in Darkhan city. This result exceeded by 18 times the normal average. It was also observed that the air pollution in Darkhan city deteriorates significantly in the winter. While the content of nitrogen dioxide in the air of Darkhan, Erdenet, Baganuur, Murun, Ulaangom cities is relatively high, the content of sulphur dioxide is relatively high in Darkhan, Shariin Gol, Murun, Baganuur and Tsetserleg cities.

1.3.1.3 As mentioned above the air pollution of urban areas with high population density is caused by the following sources, including:

- a) thermal power stations;
- b) furnaces of ger districts and the smoke from the incomplete combustion of small steam boiler;
- d) automobiles and other vehicles;
- c) waste, ash deposit, garbage dump;
- d) other sources emitting hazardous substance in the air, e.g. petroleum stations, chemical processing and service outlets.

The main air pollutants in urban areas are sulphur dioxide, dust and nitrogen dioxide. The most polluted city is Ulaanbaatar.

About 92,000 households live in the ger districts of Ulaanbaatar city (Source: *Environmental Status Report 2002, Ulaanbaatar, 2003, p.15*) and use small sized boilers and stoves for heating purposes. Over 300,000 tons of coal is consumed annually by these

households, which produces a high percentage of the total air pollution. Having a direct impact on respiratory systems of more than 80 percent, the smoke from ger districts are considered as the main source of air pollution in the surrounding areas. The pollution effect and impact from burning coal in ger stoves could be explained by the facts that they: (a) are constructed with outdated technology; (b) require low-lying chimney; and (c) need constant supply of coal. The pollution from sulphur dioxide (SO₂) from burning coal increases dramatically during the period between October and March.

Nitrogen oxide is emitted mostly from high temperature burning processes such as from vehicle engines and power stations. The expansion of the auto park in Ulaanbaatar city contributed to the rapid increase of the percentage of nitrogen dioxide in the air, notably since 1995. Supplementary factors include inferior traffic regulations, heavy traffic load, poor technical conditions of public transport and inadequate standards of technical repair and services.

The national census on the sources of air pollutants amounts to 495,773 units, including 344,150 resident sources and 125,553 movable sources from which 23,070 are not in use. There are 451 air cleaning equipments, 372 of them are fully operational and 82 require technical repair. At present there are 686 petroleum stations, 250 steam boilers, 53 hide primary processing and 36 wool and cashmere processing plants (*Source: Environmental Status Report 2001, Ulaanbaatar, 2002, p.35*) which create new rubbish dumps of dry industrial waste such as hair, wool, hides trimmings, mud and other waste. From the 16 models of automobiles selected to determine the amount of pollutant substances from complete fuel combustion, the level of carbon monoxide and hydrocarbon in 105 cars (43.7%) exceeded Mongolian standards (*Source: Environmental Status Report 2002, Ulaanbaatar, 2003, p.15*).

The number of movable pollutant sources has increased by 1.7 times and the number of passenger vehicles increased twice in the last decade. Ulaanbaatar city alone has more than 52 percent (48,120 vehicles) of the national auto park – 60 percent of which had been in the country for more than 7 years. Each used car can emit the amount of hazardous substances equal to 70-80 vehicles participating in the traffic of developed countries.

1.3.1.4 The environmental pollution in Ulaanbaatar city is deteriorating with spontaneous urbanization, and adversely impacts public health.

In 2002, the research team, including representatives from the Ministry of Health, Metropolitan Health Inspection Department (currently the Health Inspection Board of the State Professional Inspection Agency), Ministry of Nature and Environment reported on a strong correlation between dust content in the air and allergic diseases ($R_{xy}=0.5$, $p<0.05$; $R_{xy}=0.1$, $p<0.05$) that cause acute bronchitis among children aged 0 – 14. (*Burmaa B. et al, 2003*). The report also indicated on a strong correlation between the percentage of sulphur oxide, nitrogen dioxide and carbon monoxide in the air with child acute bronchitis, chronic bronchitis and pneumonia.

Other research on the indexation of air pollution (P) in large cities determined that Ulaanbaatar is heavily polluted (P=3.78) and Darkhan city moderately so(P=2.12). Erdenet (P=0.96) and Choibalsan (P=0.93) cities had acceptable levels of air pollution (*Saijaa. N et al, 2003*).

Breaking down respiratory disease patients by age groups revealed that infants aged 0-4 (2,821 in 10,000 patients) and elderly people aged 65 or above (1,143.9 in 10,000) were disposed to illnesses by 10.3 and 4.2 times more than the 16-19 age group. The main reasons for respiratory diseases are pneumonia (26%), influenza (8%), pulmonary acute diseases (8%) and bronchitis (7%). The relative risk of children aged 0-4 to sustain pneumonia, influenza or bronchitis is 18.2, 14.1 and 29.3 percent higher than the 16-19 age groups (*Altanzagas. B et al, 2003*).

Air pollution and its influence on child health have proven to be detrimental. Illnesses of respiratory organs and their medical treatment have increased in recent years.

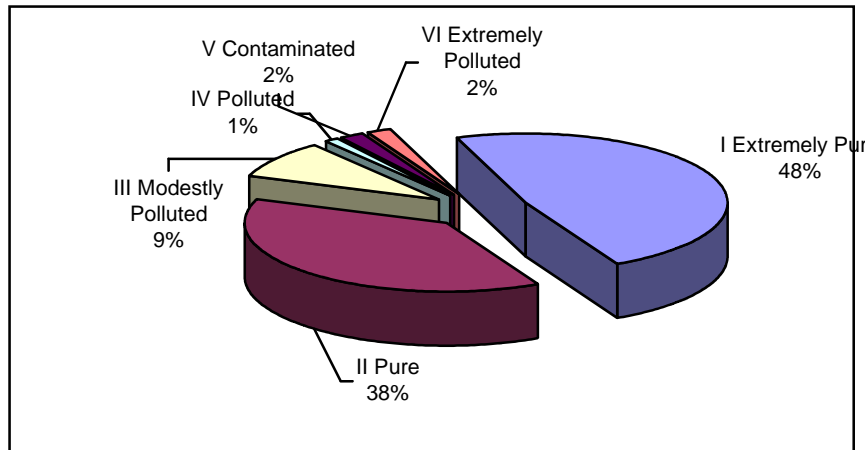
1.3.2 Water Consumption, Pollution and Shortage

1.3.2.1 As a result of environmental monitoring activities in 2002, water was assessed by 6 grades of classification under the pollution index. The pollution index and assigned grades were developed using the percentage of soluble oxide, instantly oxidized organic substances, mineral nitrogen and hard metals such as phosphorous, chromium and copper in water based on the factors determining the spread of polluting substances, damage level and contamination, and compared against measurements defined in the “Standard for Water Quality” MNS-4586-98 (*Source: Environmental Status Report, Ulaanbaatar, 2003, p.80-81*).

Water Pollution Index

<i>Pollution Index</i>	<i>Water Quality</i>	
	Grade	Classification
< 0.3	I	Extremely Pure
0.31-0.89	II	Pure
0.90-2.49	III	Modestly Polluted
2.50-3.99	IV	Polluted
4.00-5.99	V	Contaminated
6<	VI	Extremely Polluted

Quality Assessment of Surface Water



Source: *Environmental Status Report 2002*, p.80

According to the assessment report, 86% of the total number of rivers and lakes are defined as “pure” and “extremely pure”. Parts of the Tuul, Songino Kharuul and Khiagt rivers at the Altanbulag observation post were assessed with grade VI grade, or “extremely polluted”, and polluted by instantly oxidized organic substances. The quality of the Tuul river close to Tavan Tolgoi improves to grade V, or “polluted”, with a high percentage of mineral nitrogen, phosphorous and instantly oxidized organic substances. The yearly average content of these substances exceeds the tolerance level by 4 – 10 times. The Khangal river stream downstream of Erdenet city is significantly polluted and was assessed with grade V, or “polluted”, and the average content of mineral nitrogen, copper and chromium in the water exceeded the tolerance level by 1.3 – 10 times.

The rivers included in grade III degree, or “modestly polluted”, had a yearly average content of mineral nitrogen, phosphorous and instantly oxidized organic substances slightly exceeding tolerance levels. While the water of the Tuul river from Uu-bulan to Songolon is relatively clean, the water downwards from Songino was significantly polluted by the waste from the water cleaning facility, and the content of instantly oxidized organic substances in winter exceeds the tolerance level by 10 times. The inspection of sewage-works and sewage disposal shafts by the SPIA (*Source: Environment Protection Service Report, 2003*) shows that 68.2 percent of the cleansing facilities in Ulaanbaatar were operational in 1992, 54.5 percent in 1997 and only 37.4 percent in the year 2001. Thus, the main source for water pollution is directly related to the lack of cleansing facilities. For instance, an accident at the Central Cleansing Facility in 2000 had released 6.4 thousand m³ of polluted water down the streams of the Tuul river creating a permanent pollutant deposit in the flowing water.

Water pollution by ammonium nitrogen increases in the winter, and its content during this season exceeds acceptable levels by more than 30 times. In 2003 the ammonium nitrogen pollution had increased dramatically due to the failure of cleansing facilities and the overall shrinkage of the water bank.

1.3.2.2 The quality of drinking water is a basic factor for a healthy population and clean environment. Polluted drinking water contains bacteria of infectious diseases such as enteric fever and cholera. Drinking water is also polluted by chemical, physical and radioactive substances harmful to human health. There are many issues related to the concept of “pure” and “safe” drinking water. The water quality is different among the regions and areas, and even the most updated centralized water supply facility cannot provide completely safe and pure drinking water.

The National Statistics Department implemented a research project with the support of UNICEF which established that 60 percent of the total population of Mongolia is supplied with pure drinking water (*Source: Child Development 2000 National Report 2001, p.27*). The supply of pure drinking water varies in urban and rural areas – while the supply of pure drinking water for the urban population is 91 percent, it is only 34 percent in rural areas. For instance, only 22-32 percent of the population of the Gobi and western provinces are provided with pure water whereas 84-97 percent of the population of the central region is supplied with pure water. (*Source: Child Development 2000 National Report, 2001, p.67*).

Services of the centralized water supply are provided to 20 percent of the total population, and 18 percent of the total population consumes water from reservoirs. 84-97 percent of the central provinces are provided from the above water source. On the other hand, almost half the consumers in the western and Gobi regions are supplied with water from springs, ponds and rivers, and only about 10 percent of residents receive water from centralized supply services.

The relation between results of chemical and bacterial analysis of drinking water and digestive organ sickness in Khan-Uul district in 1999 discovered a strong correlation ($R_{xy}=0.7$, $p<0.05$) between the ammonia content in the drinking water with digestive organ sickness (*B. Burmaa et al, 2003*). In other research in Ulaanbaatar, the direct correlation between diarrhoea among ger district residents and chemical and bacterial contamination ($R_{xy} =0.41$, $p<0.05$) was established, which suggest that the drinking water in ger districts might not be meet health requirements (*Naymragchaa. Ch et al, 2003*).

The research on water quality and safety assessment in 15 provinces representing four geographical regions discovered common stomatological problems among the population caused by the volatility of fluorine content in drinking water. Another widespread concern is digestive and urinary organ sicknesses due to water quality and nitrate content (*Shurentsetseg. Kh et al, 2003*).

Health inspection organizations of Ulaanbaatar city and provincial services conduct monitoring of drinking water every year. Research on compiling chemical and bacterial analysis conducted at the laboratories of the above organizations during 1999-2001 revealed that in Gobi-Sumber, Uvs, Darkhan-Uul, Tuv, Bayan-Ulgii, Sukhbaatar, Uvurkhangai, Umnugobi, Dornod, Gobi-Altai, Dundgobi, Khuvsgul and Khentii Aimag for the 0.59-50 percent of the samples water hardness exceeded the average norm, in 0.8-48 percent of the samples magnum content was high. The iron content was high in 2.7-36

percent of the samples in Dornod, Khovd, Uvs, Khentii, Gobi-Altai, Dundgobi and Umnugobi Aimags (*Zolboo. B et al, 2003*).

The above research concluded that from 2,442 samples, analyzed by 10,119 chemical and bacterial indicators, 36.5 percent, or 3699 samples, did not meet safety requirements. In total there are 4,296 drinking water resources in the whole country, of which 27.9 percent are covered under sanitary protection zones and 93 percent have been documented.

In recent years, some parts of the Tuul River flowing through Ulaanbaatar have dried up. During the spring, water levels at supply shafts drop considerably which causes shortages of drinking water. As commonly acknowledged, the capital city is supplied with drinking water from 4 sources located along the Tuul River valley. The river is fed seasonally, and rain and snow water constitute over 60 percent of the run-off. The water shortage in recent years can be explained by human action and wastefulness, and by the expansion of the city. According to reports, Ulaanbaatar might encounter catastrophic water shortage by 2010. (*Environmental Pollution Report and Actions, 2003, p.14*).

1.3.3 Soil Pollution and Impact on Population

1.3.3.1 As a natural invariable system compared to air or water, ground soil has the ability to absorb and preserve the pollutant substances emitted during technogenetic processes. Thus soil pollution analysis is an inseparable part of ecological assessment in urban areas. The main elements polluting the soil in urban areas are caused by hazardous substances in the air, and dry and wet waste on the ground.

The soil pollution in Ulaanbaatar has been studied extensively. The main sources of environmental pollution are the thermal power stations, which use about 5 million tons of coal annually, over 250 steam boilers, smoke and soot emitted from about 50 thousand auto vehicles, families of ger districts, ashen waste, industrial and domestic waste, rubbish-heaps as well as petrol stations, and oil and lubricants suppliers (*Environmental Status Report 2002, p.15*).

According to the report, analysis of the medium and maximum content of eleven solid elements contained in the soil of some petroleum stations along Baga Toiruu, and lubricants and oil services at the open area of “Da Khuree” technical market of Ulaanbaatar reveals that the content of nickel, cobalt, vanadium are 2-7 times more, zinc, chromium and molybdenum 2-14 times, and lead, copper and tin 2-42 times more than the analogical content at the ground soil of the city. Geo-chemical anomaly of elements such as lead, copper, zinc and nickel is detected in the soil of ger districts which are located in the northern and eastern suburbs of the city, as there are no integrated sewage networks in these areas and there are too many domestic rubbish dumps. Generally the most part of the soil of Ulaanbaatar city is polluted. Industrial objects pollute the soil of Ulaanbaatar through the air (*Sustainable Development and Environmental Analysis, Ministry of Nature and Environment, 2003, p 4*).

1.3.3.2 One of the factors badly polluting the surroundings of Ulaanbaatar, and causing deteriorating living conditions for its residents, is durable waste. Although the number of centralized rubbish dumps in the communities has increased year by year, the rubbish and waste thrown away on non-purpose zones covers many thousand hectares. Today, 452,090 m³ or 200 thousand tons of waste is thrown away every year in Ulaanbaatar without any re-processing (*Sustainable Development and Environmental Analysis, Ministry of Nature and Environment, 2003, p 4*).

Waste collecting equipment and transport have become obsolete and derelict – only 53% of the waste transport park is in use and over 40 percent of the total waste is removed from community dumps, leaving substantial waste on the streets and squares and especially in the ravines close to ger districts. There are many sources that pollute the soil in large cities such as petrol stations, petrol and lubricants warehouses, auto service shops and parking, garages, dealers of petrol and lubricants, construction works at water reserve and other ecologically sensitive zones, hide processing industries as well as the waste derived from service and domestic use.

Waste in Ulaanbaatar city (in a year)

No	Sources of Waste	m ²	Ton
1.	Ger Districts	144.009	86.466
2.	Apartment Buildings	152.051	45.615
3.	Street Cleaning	15.442	6.117
4.	Industry and Production	75.977	30.391
5.	Other	64.610	25.844
	Total	452.090	194.433

Source: Environmental Status Report 2001, Ulaanbaatar city, 2002, p.45

1.3.3.3 At present 686 petrol stations, 250 steam boilers, 53 hide processing and 36 wool and cashmere processing plants are in operation, creating unplanned rubbish points of dry industrial waste such as hair, wool, hides trimming, mud and other waste. Railway depots spilling diesel fuel have become one of the worst places polluting the soil. The spoiled fuel at Tolgoit oil refinery has already penetrated to a depth of 30 m and has polluted the artesian water.

1.3.3.4 Air, water and soil pollution has increased in recent years due to accelerated urbanization and the loss of the self-sustaining features of the surrounding ecology. In this regard, habitation capacity and climatic change should be considered in determining acceptable pollution volumes and appropriate location of pollutant sources in order to efficiently implement measures decreasing and eliminating waste.

Although the number of community rubbish dumps increases year by year, the waste in non-designated areas covers many thousand hectares of land reserves. The situation is made worse by the absence of integrated waste processing centers meeting international standards.

Unfortunately there is no legal framework relating to soil exploitation norms, and regular monitoring activities are not carried out as in the case of air and water inspections, which leads to out-of-control soil pollution. The high costs of soil analysis and unnoticeable volumes of direct pollution cause further deterioration.

1.3.3.5 Soil pollution, especially in the large cities, adversely affects public health, and this is increasingly becoming an alarming concern. The research paper “Physical, Chemical and Biological Risk Factors of Public Health in Large Cities and their Hygienic Assessment” has compared the soil pollution at large cities by determining the pollution with a breakdown of main pollutants. The section on soil bacteria analysis reports on extreme count of perpharyngitis in the soil of Darkhan city and escherichia coli bacteria in Ulaanbaatar city (*Saijaa. N et al, 2003*).

According to the research, the average content of lead in the soil of Ulaanbaatar is 49.92 mg/kg or 2.4 times higher, and zinc is 145.9 mg/kg or 1.2 times higher than the normal average. The content of zinc in the soil of Erdenet city is 125.5 mg/kg or 1.1 times higher, and in the soil of Darkhan city 149.5 mg/kg or 1.4 times higher than the normal average. Content of lead in the soil of Choibalsan city was 58.4 mg/kg or 2.8 times higher than average.

Among environmental risk factors having an adverse impact on public health in large cities is excessive soil pollution by lead which has both isolated and combined effects. In particular excessive lead in the soil, alone or in combination with cobalt or manganese, exaggerates digestive organ diseases.

Lead, which affects the structure of human organs, is one of the main substances polluting the air, water and soil of urban areas. The research paper “Environmental Lead Pollution, Influence on Human Health, Hygienic Assessment and Prevention” (*Burmaa. B et al, 2002*) has firmly established the serious influence of lead contained in the air, water and soil of Ulaanbaatar city on child growth, mental development and health. The research claims that comparing with adults the child’s body easily absorbs lead and the developing brain is very sensitive in reacting to lead influence.

Petrol imported from the Russian Federation and Republic of China possesses a high lead content with a count prohibited in developed countries – 15 percent of petrol lead is digested in the engine while 85 percent is emitted into the environment (*Bat-Ulzii. Ts et al, 2002*). Taking into account that auto vehicles, especially old cars, pollute the environment significantly, it is worrying that, according to the 2001 census, 70 percent of national car parks do not meet technical standards (*Environmental Status Report 2001*). As of 2003, there were over 59,000 registered vehicles, 40.3 percent of them in operation over 11 years since assembly, and 21 percent over 7-10 years. Interestingly, from 421,616 auto cars undertaking annual technical inspection in 2003 only 492 cars were restricted from further use for emitting excessive smoke (*Banzragch. Ts et al, 2004*). From an environmental sense, it is extremely unsatisfactory when this figure is compared with the number of old vehicles registered in Ulaanbaatar.

The volume of lead in the soil of Ulaanbaatar city is 4.5 times higher than the approved standard, and 2.3 times higher in the air, with immense lead pollution in the districts of Khan-Uul, Songinokhairkhan, Bayangol and Sukhbaatar. The operations of the thermal power stations and the expanding auto parks in these districts make the pollution worse.

1.3.4 Damage to the Ecological Balance and its Consequences

1.3.4.1 The sequence of natural calamity has increased in most regions of our planet in recent years because of world climate change and the loss of nature eco-balance. There are over 20 kinds of calamity, which are considered as extremely harmful to the public or the economy and over 10 of them happen to our country. In particular, in 1992-2002 natural disaster resulting from excessive snow happened 9 times; storm, over 40 times; highly infectious disease 42 times; the loss of radiation and hazardous chemical substance, 6 times; plane accident, 5 times; and many other disasters occurred, such as the Nalaikh mining collapse, the freezing of the central steam boiler of Gobi-Altai, Bayankhongor, Arkhangai, Umnugobi and Uvs provinces, the downtime of electric stations III and IV and natural disasters and industrial accidents. As a result of these disasters and accidents 458 people died and about 14.4 million heads of animal died. The state lost over 380 billion tugrugs in consequence. (Batchuluun S, 2004)

For our country, which runs pasturing animal husbandry and non-irrigated agriculture, having the vast region of Khangai and Gobi, natural calamities are repeated and the effects are not decreased because of the snow and severe weather of winter, storms, hurricanes and forest fires in the spring, the wind, draught, flood of summer and the wet snow, cold rain, windstorms and blizzards of autumn.

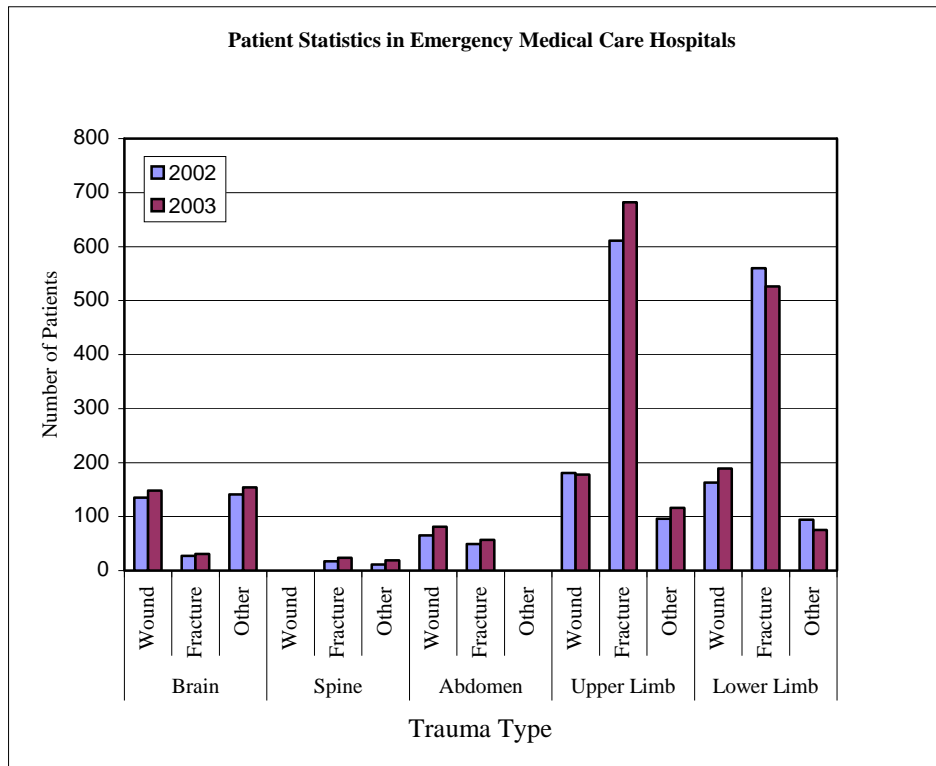
There are many reasons for increasing losses and risks from of natural disaster as follows: the carrying capacity of pastures has deteriorated; the concentration of population density has increased; forests have been destroyed; the calamity of drought and desertification has increased; economic reserves against natural calamity have been depleted during the transmission into a market economy; management and organization have been interrupted; and people and herders are unable to prevent from natural disasters.

1.3.4.2 Violation of the right to live in healthy and safe environment is caused by lack of integrated policies on city planning, economic and social development, and environmental protection, by substandard regulations and deficient economic capacities.

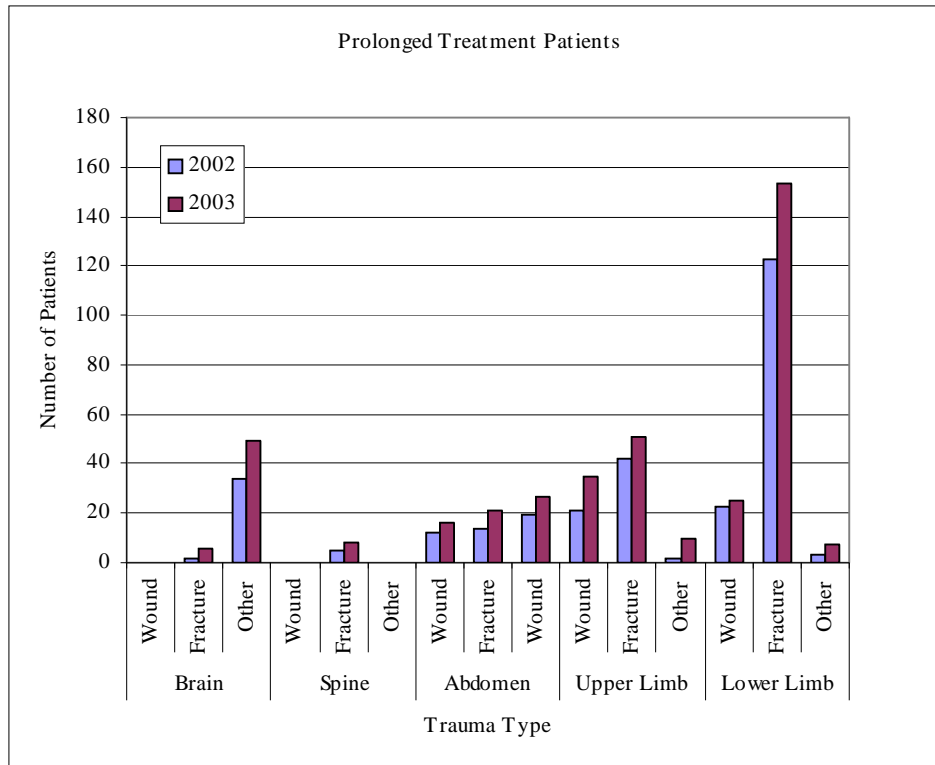
An example could be illustrated from the catastrophic road conditions during winter. Many residents, especially children and older people, slip on the icy streets, get injured, involve in car accident or in some misfortunate cases pass away.

According to the report from the Traumatology and Rehabilitation Hospital, slippery road conditions of 2001-2002 had caused 2,150 pedestrians to seek emergency medical care, and over 300 patients required prolonged treatment at the hospital. This data had increased in

the year 2003 when 2,280 pedestrians took emergency medical care, an increase by 6 percent, and 408 people were treated in the hospital, or 36 percent more than in the previous year.

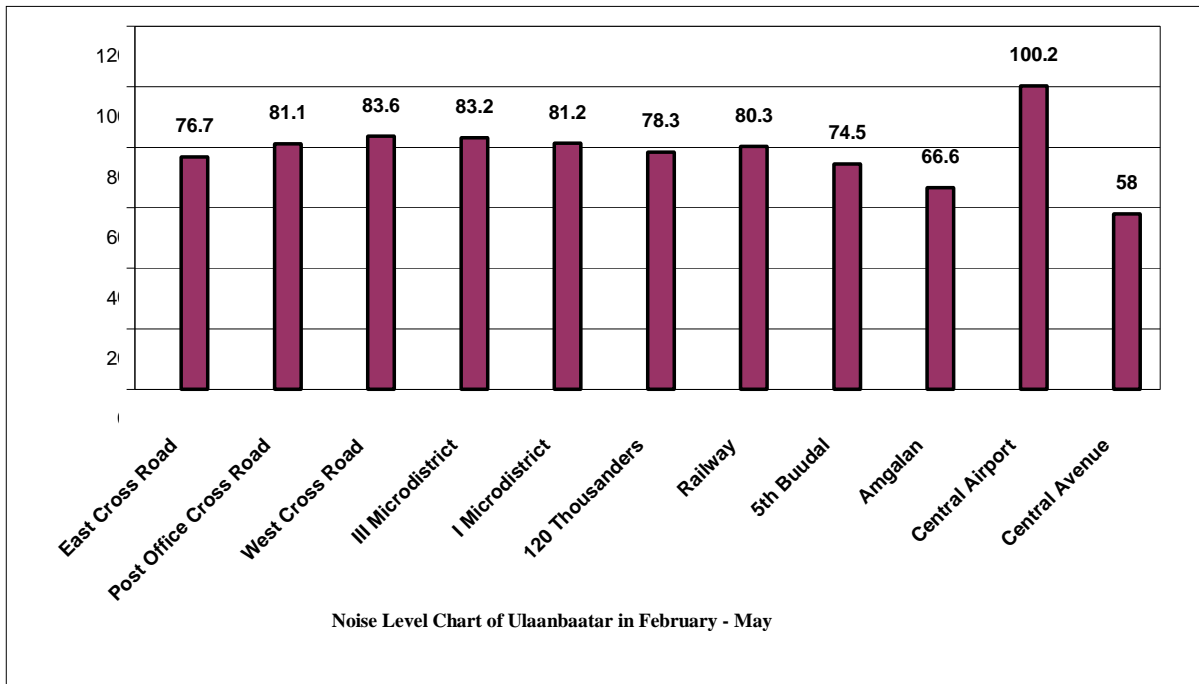


Patients receiving medical emergency care in 2002 and 2003 after accidents on slippery roads were treated at the cost of MNT 0.912 million, patients undergoing prolonged care in 2002 received treatment worth MNT 16.8 million, and 408 patients were treated at prolonged care at the cost of MNT 22.85 million (Lkhagvasuren S, 2004).

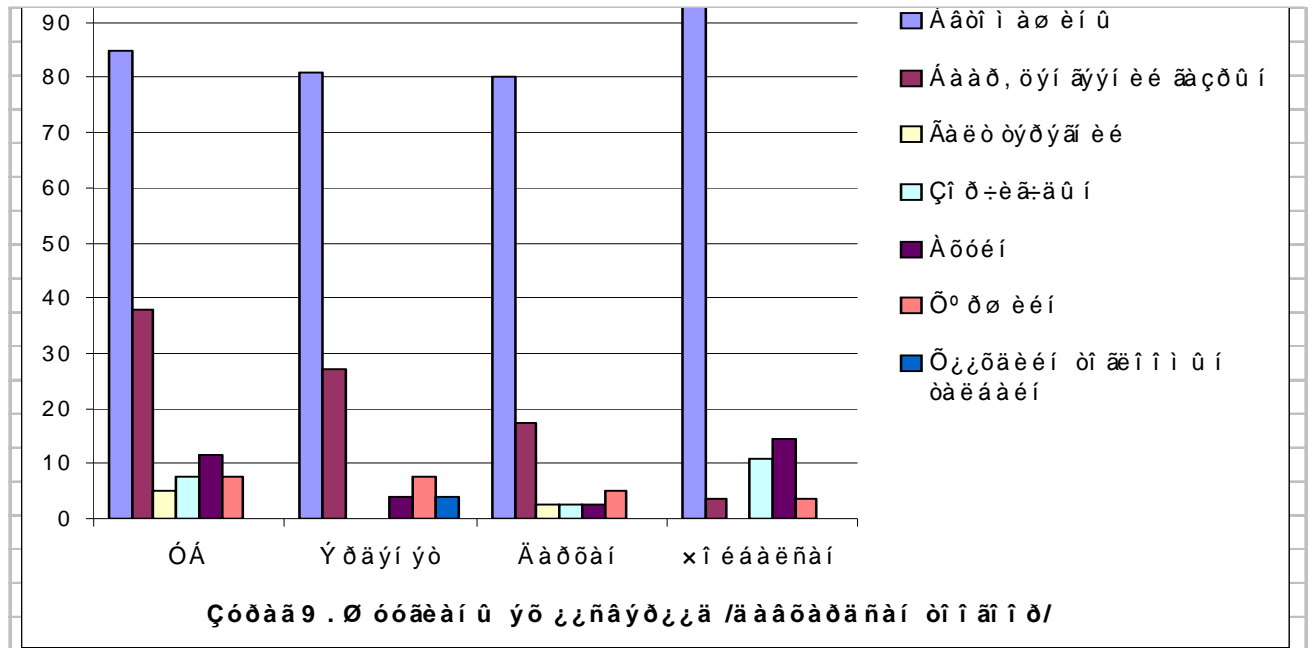


The analysis of trauma types among patients receiving medical care after accidents on slippery roads reveal that most of them had sustained upper or lower limb fractures, with brain injuries coming second. In regard to prolonged care, most of the patients had leg fractures, brain wound and arm fracture. An average patients receive a month-long treatment at most, either at the hospital or as out-patients. Statistical data proves that urban residents are injured, and in some cases pass away, in car accidents during winter as a consequence of inferior city planning, inadequate construction and maintenance standards, and abnormal operations of cleaning businesses.

1.3.4.3 Among many problems related to high density urbanization is external noise levels that usually tend to worsen sickness, adversely impacts physiological and mental depression. Almost 60 percent of street noise is originated from auto vehicles.



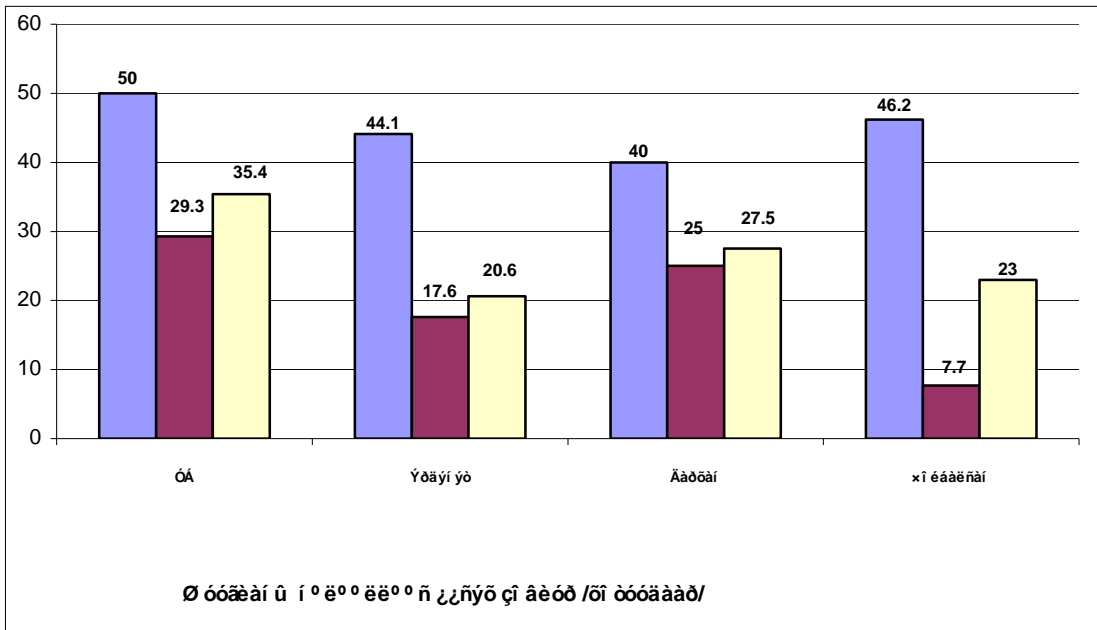
The influence of street noise on human health was at first studied in large cities, including Ulaanbaatar, Erdenet, Darkhan and Choibalsan, within the framework of hygienic assessment to define physical factors creating domestic environmental risk (Saijaa. N et al, 1996). Another phased research was done in 2000 and 2003 to compare noise levels at the worst points of the large cities (Kupul. J et al, 2003).



The base noise level was established in 1996 at 71 DB. In 2000 the noise level was registered at the West Cross Road at 79-84 DB. Overall, in 2003 the noise level was established as 80 DB in Ulaanbaatar, 70.8 DB in Erdenet, 59 DB in Darkhan, and 58 DB in Choibalsan city. As of 2003 the noise level of Ulaanbaatar was higher than that of Erdenet and Darkhan cities, and 1.1 times higher when comparing with the standards of (70 DB) set up by the World Health Organization.

The result of public opinion poll among the residents of large cities shows that 51.9 percent of the respondents lived in thier neighborhood for more than 15 years, 63.5 percent believe that residents above 45 years of age suffer most than other age groups, and 84.4 percent stated that vehicle noise in the worst noise sorces (*Saijaa. N et al, 2003.*)

Headaches (46.6 percent), insomnia (22 percent) and anger (28.7 percent) are common among pain caused by the noise.



1.4 Implementation of the Right for Damage Compensation caused by Illegal Action

It must be fairly appreciated that there is some progress in introducing into existing legislation certain amendments and modification aimed at improving the mechanism of compensating for damages born due to violence of the law by others. However it must be noted that there is still a room for new more comprehensive legal instruments making the current situation not sophisticated as yet. From the other hand the the law implementing institutions are not efficient in utilizing the whole scale of potential they are empowered with.

1.4.1 As the Civil Code interprets “a person who had deliberately or coincidentally caused damage to human rights of other persons, their life, health, properties, human dignity, reputation or honor is obliged to compensate it”. The Criminal Code formulates “the person who suffered damages of his human dignity, reputation, mental duress or material loss due to criminal acts of others shall be identified as victim”. The thorough analysis of the existing legislation reveals that mechanisms for compensating material damages or loss is well reflected in the law. As for the falling victim, suffering physical injury or mental

duress, deprivation of civil rights (non-material losses) the mechanism of compensation is not completed sufficiently as yet.

Thus in accordance with the present legislation in case of loss of life compensation obligations are limited merely to covering funeral expenses, payments of average salaries of the deceased to the disabled left behind or allowances to the dependent of the passed income earner. Furthermore compensation claims for traditional ceremonies for praying devoted to the deceased and family commemorating rituals on the 21st and 49th days were rejected by court automatically.

The studies of legal proceedings of 56 cases on intentional murder in Ulaanbaatar in 2002 had unveiled that in 5 occasions when the 21st and 49th day family ritual and praying expenses had been claimed the court had simply refused to acknowledge them with indication as “traditional ritual matters”.

There is still no legal settling of mental duress compensation related to loss of a spouse, children or close relatives as yet. In contrary dismissing claims for moral compensation for severe mental harm has become common practice.

1.4.2 The present law provides mandatory monetary compensations for distributing information harmful to personal dignity, reputation or honor in case the offender cannot prove the accuracy of the circulated information. Currently there are numerous lawsuits of this sort under proceedings, and in fact this is the only type of suit procedure, which could be classified as monetary compensation of non-material (moral, ethical) harm. The embarrassing fact is that while harming someone’s prestige may be measured in monetary terms and charged, the damages for victims of murder cannot be transformed into monetary compensation.

Resolution No.3 of the Supreme Court dated January 19th 2000 in concern of compensations for damages caused by criminal acts states that damages inflicted to human dignity, reputation and prestige could not be evaluated in monetary terms. Thus it recommends to compensate direct expenses born to those who suffered physical injury, and funeral expenses for the family of the deceased, however expenses for traditional rituals are not included into the loss.

The Civil Code provides for quite the same remedies – in case of causing intentional physical injury the guilty person must compensate to the victim the salary the latter could not earn due to consequences of injury (temporary disability). This may be done by means of covering other expenses in the amount of the lost salary, which shall be born as charge for treatment, rehabilitation care or ordering and obtaining prosthesis.

Every year people in their hundreds fall victim of crime. Many of them loss their lives or become severely disabled and remaining with irreparably defected bodies. The present legislation ensures for the victims of illegal actions reimbursement for direct expenses exclusively. It means the reality is well behind the necessity. The time has arrived when the irreparable disability (loss of extremities, eye etc.), irremovable scars from wounds and the

following mental distress and suffering should become a subject of bearing responsibility at last.

1.4.3 In recent years crimes against private property are prevailing in the society. Damages caused by theft, swindling and other types of machination are assessed in total to several hundred millions of tugrugs. Although such crimes are effectively detected and the perpetrators are being detained, however compensations for damages are still far from being satisfactory. The law enforcement institutions should be urged to significantly improve their duties in the field of better protecting civil rights and enforcing to the maximum extent possible assigned damages in parallel with their usual routines to detain and sentence.

The court statistics show that the volume of damages inflicted by crime is steadily growing from year to year. The following table displays this trend.

Year	Damages Caused by Crime						
	Death	Severe Injury	Serious Injury	Minor Injury	To Citizens (in million MNT)	To the State (in million MNT)	To Entities (in million MNT)
2000	544	515	789	1,812	3,249	2,003	459
2001	476	520	726	2,482	4,448	1,281	2,612
2002	512	563	709	1,681	4,502	1,243	956

The NHRCM had carried out jointly with the Research Center of the Supreme Court a survey on the state of reimbursement for damages from premeditated murder, deliberate physical injuries and from crime against private property. The report recommends urgent steps in order to secure the assets of the perpetrator by means of sealing right from the start of the criminal prosecution.

The survey show that out of 519 cases of intentional murder, deliberate physical injury and crime against private property only in 33 cases steps had been taken in order to seal the assets of perpetrators and to satisfy the compensation claim.

Although the law provides sealing of property even in the middle of a criminal investigation by the prosecutor there was no case when sealing had been carried out during this stage.

In the process of prosecution of 56 cases of deliberate murder none and of 105 cases of causing severe injuries only in 2 occasions the property of the perpetrator has been sealed. Only in 34.4 percent of all cases embraced by the joint survey at the stage of prosecution and investigation damages were fully compensated.

Polling has been organized among the employees of the Court Decision Implementation Office of Ulaanbaatar city involving nearly 40 staff members. To the question on the extent of sealing property of the guilty party 72.2 percent had answered that practically nothing is

done, and 25 percent said that such proceedings are rare. To the question on actions to maximize damage compensation to victims 58.3 percent had supported the idea of sealing assets of perpetrators, and 36.1 percent were underlining the importance to identify properly the residence address of respondents.

It is vital to protect the victim's right from the start, i.e. at the stage of initial investigation, therefore to psychologically support the victim. No need to emphasize the importance of developing methodologies for accurate evaluation of damages, and to unveil the hidden assets of the perpetrator and to seal them. These duties are the essential part of successful replenishment of losses at the end.

1.4.4 In conformity with the newly adopted Law on Court Decision Implementation this service has been transformed into territorial system of management. In addition a new mechanism for stimulating the performance of executors (officers) has been ensured - the law allows for certain retentions to be withheld by the executor from the money collected from the guilty party. Analysis of reports and public releases issued by the General Department for Implementation of Court Decisions and in the circular of the Ulaanbaatar headquarters of GDICD shows that there are notable positive achievements unfolding in the activities of court decision implementation indeed. For instance, in 2002 altogether MNT 9,994.8 million has been reimbursed in connection with the case of 9,417 people, i.e. enforcement by 35.6 percent from the total number of claims. In comparison with these numbers, in 2003 in appellation of 16,380 cases MNT 32,137.8 million had been compensated, which makes already the rate of implementation at 56.7 percent.

In earlier times there was no practice to oblige a prisoner serving sentence to compensate losses, if not to mention a few very rare occasions. However the situation is completely different today. As it is reflected in the circular information of the GDICD 565 prisoners had paid compensation of MNT 582,1 million in 2002 alone. This example is a positive effect of the new amendment to the law, which prohibits the release of the prisoner before complete compensation for damages caused to the victim. Nevertheless there are still thousands and thousands of victims who are continuously waiting in vain. Thus as it is indicated in the report of the GDICD MNT 16,911.7 million had not been reimbursed to 17.800 claimants.

1.4.5 The fact that the perpetrator is an unemployed, with irregular income source or insolvent becomes the key reasons for failing to fulfill the court decision. So it would be rather reasonable if the victim could preliminarily receive the relevant compensation directly from the state, and as the next stage the state should reimburse the money from the guilty person at a later stage.

Besides improving the professionalism of court decision executors, their workload, expected outputs and work environment should also be revised through appropriate regulations and with use of a scientific approach.

The survey results reveal that the work of this service is the most hectic in the capitol city and in as the Aimag of Dornod, Khuvsgul and Orkhon. For instance in the Ulaanbaatar

headquarters had prepared case files reaching 21,187 pages of volume which makes 61.9 percent of the total output produced nationwide. This workload would transfer to 385 pages annually and 1.5 pages a day per officer.

This is clearly an evidence to support the revision of the workload of personnel in general on one hand, and to increase the staff in places with shortage of human resources on the other.

The Law on Court Decision Implementation prescribes an incentive share of 0.5-10 percent for the successful officer who had managed to replenish the loss of a victim. However, at the same time this provision of the law excludes retention rights in case of criminal damages. Logically this means that no executor would be encouraged to work on compensating damages inflicted by crime without incentives.

1.5 Status of Rights of Employees in the Mining Sector

Since the adoption of the “Gold” programme by the Government of Mongolia in 1992, gold mining has been intensified, the volume of foreign investments and the number of companies in this sector have increased. At the end of 2002, nearly 130 gold mining entities were operating and employing 5190 people, which is 31.6 per cent of the 16394 mineworkers. In addition, in recent years informal mining came into existence in Mongolia (Activities of geology-mining sectors in 2002, Mineral Resources Authority of Mongolia).

As the information provided by some soum governors and mining entities, nearly 30 thousand people are involved in artizanal mining. These artizanal miners sold over 50 kg of gold to the Bank of Mongolia in 2002 (Introduction to draft Law on Artizanal Mining of Minerals).

Therefore, there is a need to study the status of mineworkers’ rights related to work, the reasons for the violation of human rights, especially the rights of workers provided in the labour legislations of Mongolia and in the International instruments and to develop legal framework, economic and socio-psychological environment for the application of those rights. The National Human Rights Commission of Mongolia (NHRCM) in collaboration with the State Professional Inspection Agency, the Confederation of Mongolian Trade Unions and the Mongolian Employers’ Federation conducts the study.

The study involved over 3800 workers of 20 goldmines, and 8 fluorspar and coalmines, and some preliminary data were collected from informal miners.

1.5.1 There are infringements of workers rights in contracts of employment. The common violations are non conformity of their content with the provisions of the legislation, non-levelling up with the conditions specified in collective agreement and collective bargain, and no indication on duration of the contract and workers are not provided with a copy of the formal contract. For example, the contract of employment concluded by “Mongolia Bulgaria geo” company specifies that “...*the contract will be terminated upon the initiative*

of the administration” and *“The administration will not be responsible for providing housing to workers during field production”*. Such provisions seriously infringe workers rights. The contract of employment concluded by the “Altan Dornod Mongolia” Co., Ltd violated the provision 1 of Article 49 of the Labour law by specifying that a wage for 3 months’ probation period will be 40 per cent of the salary and the remaining 60 per cent will be paid only if an employee’s contract is extended.

It is common that the conditions of the contract of employment are drafted by employers only and signed by workers, the duration of the contract for seasonal work is always 3 months initially and extended after, and workers are not provided with a copy of the contract.

In addition, there are other common deficiencies in the contract of employment of the companies, which conclude employment contracts and have internal labour regulations. These deficiencies include non-specification of the rights and benefits to employees applicable to their posts, their working conditions, obligations, conditions for provisional performance of other work, conditions for imposing limited or full liability for property taking into consideration the positions held, obligations of parties concerning the improvement of workers’ knowledge and skills and the occupational safety and health.

It was found out that some gold mining companies conclude work performance contracts with workers thus prejudicing workers’ rights and benefits. For example, the gold mining company of “Erel” Co., Ltd in Uyanga soum of Ovorkhangai province concluded work performance contracts with most of the workers.

Establishment of the *Labour dispute settlement commission* was not applied in all entities involved in the study except in “Shijir alt” Co., Ltd. Although no case of labour dispute registered in these entities for over last 2 years, workers’ complaints were managed within administration regulations of the company and decisions were often made for the interest of the one party. There is no indication that no labour dispute will occur in the future.

1.5.2 An survey from 200 respondents revealed that employees of gold mining companies except in “Altan Dornod Mongolia” and “Shijir Alt” Co. Ltd work overtime approximately for 8-12 hours a week and they are neither compensated for days worked on weekends nor paid for overtime. However, the situation in coal mining companies and fluorspar refining plants is better because employees work less overtime and rest on Sundays and public holidays. Due to the absence of collective agreement and the perception that coal miners are paid based on the output, many employee’s understanding was that they should not get paid for overtime even the continuation of their work is 10 hours, since their effective work hours do not exceed 8 hours because of idle time and lunch break. Also there were cases when employers’ were saying about providing holiday, instead of compensation to workers during idle time occurring not because of employee’s fault and overtime is not paid as employees receive additional pay for field work.

In gold mining companies operating seasonally and in coal mining companies, night work and overtime are not compensated. This is related to the absence of collective agreement,

poor recording of idle time and the lack of knowledge about workers' rights, additional pay and compensation.

The ILO's Convention concerning Equal Remuneration, which Mongolia ratified in 1969, provided the principle of equal remuneration for work of equal value and equal remuneration to man and women for work of equal value. This principle is enshrined in the Labour law of Mongolia.

We received some information indicating wage discrimination, therefore, the questionnaire and discussions with employees included questions to clarify such complaints. At Arnaimgain gold mine of "Altan Dornod Co.Ltd" it was revealed that a Mongolian welder receives US\$ 175 whereas a Russian welder receives US\$320.

Generally, it was common that certain provisions of the legislation related to wage are violated in the mining sector, which was excused because of the specific nature of work in the industry. The common infringement is that the internal labour regulation and even collective agreement specifies that the wage will be paid once a month on a defined date. Moreover, there was widespread practice of paying wages even on the defined date. For example, some Mongolian workers of "Seligdariya Mongolia" Co. Ltd did not receive their wages for 3 months. This manifests that there are extensive violations in the mining sector breaching the Labour Law of Mongolia, which provides "Wages of an employee shall be paid at least twice a month"

52% of the respondents confirmed that they were not paid for neither overtime nor compensated for working on weekends.

1.5.3 The provision of the Labor Law on the right to rest is often violated in the mining sector. In peak season, most mines operate in two shifts and the duration of one shift is 10-12 hours with 12 rest hours. It can be calculated that miners work in peak season for approximately 70-80 hours per week.

71.7 percent of the 120 employees responded that they work more than 8 hours a day whereas 59.8 per cent confirmed that they never rest on weekends (Report of the NHRCM Polling Survey).

It was revealed that the total worked hours per week exceeded the limit set forth in the Labour Law of Mongolia. The maximum number of hours worked a week reached 86 and on average, the workers worked a week by 27.39 hours more.

Employers of gold mines explain overtime and absence of rest days on weekends, public holidays and no-compensation for worked weekends in relation to the seasonal nature of the mining operation, which continues for 6-7 months from April to October. They tell that workers rest during cold season. However, upon the closure of the mining operation employers release workers with no holiday payment and their employment contract is terminated.

Responses of 127 workers of the formal gold mining companies shows that 48 per cent of them take annual leave, 9.4 percent receive compensation whereas 42.5 per cent take neither vacation nor compensation.

In some companies employers infringe employees' right to rest by not allowing them a vacation or compensation, with the excuse of seasonal nature of work, while in others the internal labour regulation entitles workers to vacation only after 11 months of employment, thus preventing an employee to exercise the legitimate right to vacation at favourable time.

1.5.4 The application of the labour and other legislation on occupational safety and health and on improvement of working conditions varies from one company to another. Some companies such as "Shijir alt" and "Altan-Dornod Mongolia", fluorspar plants of Bor-Undur and Airag have developed OSH plan and allocated fund for their implementation. These companies assigned a post in charge of OSH issues and medical personnel, established OSH council and organize training, provide monitoring at three levels and OSH instructions. The machine safety is monitored in accordance of the applicable regulations, adjustment and safety of lifting, transportation machinery, pressurized containers and pipes is tested, certified and checked, and measures are taken to control dust, noise and vibration, improve lighting and provide workers with protective clothing and equipment.

But in other gold mining companies operating seasonally their measures are limited to only letting the workers sign safety instructions, supply protective footwear, cloths, gloves, milk and yoghurt. However, safety and health at work are not taken care of. There are common issues such as failure of normal operation of machinery and equipments, poor recording in technical documents of the machinery and equipments, tests and adjustments of lifting machinery, pressurized containers and pipes are not undertaken, night work with no area lighting, electric wires connection is not sheltered, machinery and equipment safety is not adequate etc. Such situation was observed in the gold mines of "Mon Dulaan trade", "T and Ch" and "Odod" companies.

In addition, it was found in Ar kharchuluut mines of "Mon Dulaan trade" Co., Ltd and in Bukht mines of "Odod" Co., Ltd. that shafts had steep walls and slopes and no terrace system was applied.

In all surface gold mines visited except a gold mine at Ult do not control dust, use of wet drilling techniques and water spray in workplaces is non-existent. Workplaces of water pistollers are not shielded from sun, wind, cold and heat, also the conditions in repair and diesel shops do not comply with hygiene requirements in the gold mines of "Ajnai khurd" Co., Ltd and Ult. Use of toxic chemicals was not discovered in all mining plants visited.

Living conditions of the mineworkers vary by mining companies. In some cases, workers live in wooden house, carriage or ger. Diesel operators of Jargalant gold mine of the "Mongolia Bulgaria geo" and "Ajnai khurd" companies live in their workplaces and the support workers and cooks live in kitchen-gers.

The hygiene conditions of workplaces found to be unsatisfactory in most mines. In particular, 30.7 per cent of mineworkers that were involved in the study responded that their work conditions do not satisfy them. They complained about excessive dust and listed following problems:

- Work is often undertaken outdoors therefore exposed to unfavourable weather conditions such as heat, cold and wind;
- Exposed frequently to harmful fumes from diesel engines;
- Work in wet conditions;
- Excessive noise and vibration;
- Always work in standing position;
- Poor air ventilation for indoor work; and
- Cold and uncomfortable inside living premises.

Employers in mining sector are obliged to provide workers with favourable working conditions and rest facility for short break, suitable protective footwear and clothing, protective equipment depending on the nature of their work and supply poison antidotes and food products to those who work with toxic chemicals (Articles 87, 90, 91, Labor law of Mongolia).

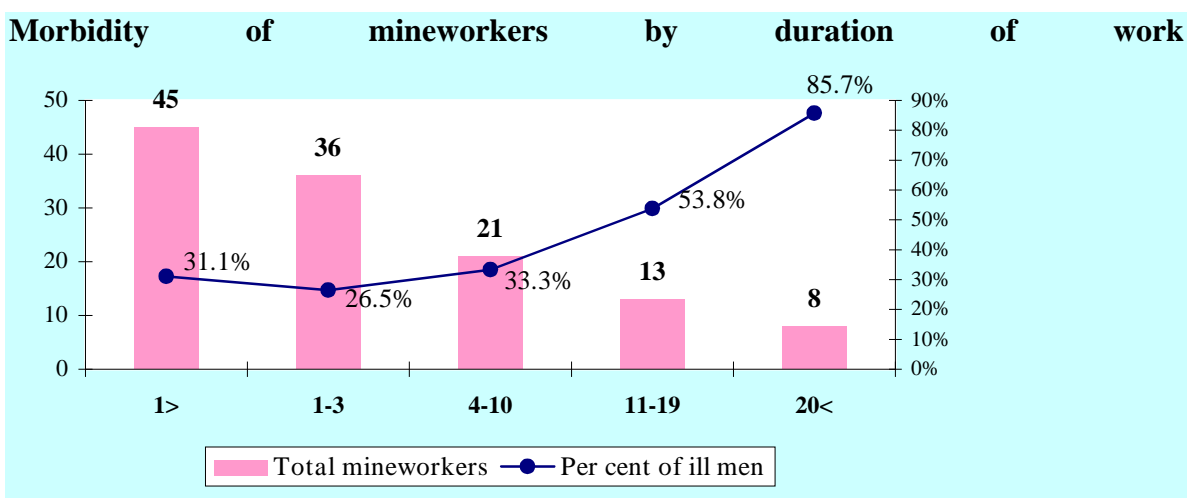
However, only 63.2 per cent of the mineworkers were provided with special protective wear and protective equipment in accordance with applicable regulations. 70.4-83.2 per cent of the mineworkers were provided with suitable protective footwear, cloths and gloves. Protective helmet was provided to only 33.3 per cent of engine drivers, 37.5 per cent of welders, 40.0 per cent of workers in repair shops and 40 per cent of water pistollers. However, in the gold mine of the “Shijir-Alt” company, all dredge workers were provided with special work clothing and protective equipment. Only 34.4 per cent of the workers responded that first-aid kit is maintained.

An employer shall organize pre-employment (for each new employee) and regular (not less than once a year) medical examinations for workers (Articles 92.1, Labor law of Mongolia; List of works and services, necessary for regular preventative medical examinations of employee, approved by order A/206 of Health and welfare minister). However, only 26.0 per cent of the workers were involved in pre-employment and regular medical examinations. Only 24.4 per cent of the new mineworkers were medically examined before employment.

Occupational diseases are occurring due to unsatisfactory health conditions in mines, with four most prevalent diseases revealed among the respondents. Compared to miners having similar health problems before employment at current work, the morbidity of miners with kidney and urine tract disorders and joints disorders is 7.5 times higher and 6.5 times higher respectively. The morbidity with cardiovascular diseases and eye, ear, nasal and throat disorders are 1.5 times are higher as well. These disorders are becoming occupational diseases.

These diseases are caused by long hours and excessive work outdoors in the conditions of heat, cold, wet and exposure to harmful fumes and dusts. 61.7 per cent of the respondents having ill health are suffering from occupational diseases and the tendency is that occupational disease is likely to increase in relation to the duration and type of work.

Morbidity by the duration of work revealed that From 81 workers working in the gold mining sector for up to 3 years, 26.5-31.1 per cent complained about ill health. Among the miners, working for four and more years, ill health increased to 53.8-85.7 percent. This manifests that morbidity among workers in gold mining is affected by their working conditions.



Workers of crushing workshop in the refining plant of Bor-Undur do not regularly use ear protection devices and dust mask, although there is excessive noise, vibration and dust at the workplace. Currently over 310 workers in the plant are under medical control of occupational diseases. Majority of these workers got the occupational disease while working in Burentsogt mine, Sukhbaatar province.

One of the reasons of the occupational disease is that many mineworkers do not use protective equipment provided.

Dust level at workplace shall not exceed 10 mg/m^3 . However, in Shivee ovoo coalmine, it was discovered that the level is 17 mg/m^3 in the crushing workshop, 40 mg/m^3 in the steam-stuve workshop and 12 mg/m^3 in the joinery workshop. Noise level must not exceed 85 dbA, however the level is exceeded by 8 -16.7 dbA at upper part of a bunker, in crushing and burnishing workshops, repair workshop, in steam stove and joinery workshops. (Quotation from the report of a researcher)

1.5.5 Application of Rights of the Miners in the Informal Sector

1.5.5.1 The main locations of informal gold miners of are in Arkhangai, Uvurkhangai, Bayankhongor, Bulgan, Darkhan-Uul, Gobi-Altai, Selenge, Tuv and Uvs provinces. Sources estimate that currently there are approximately 30.6-42.1 thousand informal gold

miners in Mongolia (Informal mining sub-sector – role of employers’ organisations”, workshop materials).

Moreover, there are 230-300 informal coal miners in Nalaikh district and around 500-800 fluorspar miners in Dalanjargal and Airag soums of Dornogobi province.

Bayan-Ovoo, Bumbugur and Galuut soums of Bayankhongor province have the largest number of informal gold miners (around 10,000), followed by Ult minefields in Uyanga soum of Uvurkhangai province (5000-6000 people), and Zaamar soum of Tuv province (2500 people).

At the time of the study in Bayankhongor province, there were over 40 informal miners in Amin-Uus field, Bayan-Ovoo soum, Bayankhongor province; around 100 individuals of 30 families in Ulaan Bulag field, Bayan-Ovoo soum; almost 1000 people of 100 families in Adgiin Khudag field and about 120 people of over 30 families in Ar Gashuun Uus field in Bumbugur soum. In Uvurkhangai, approximately 4000 miners of over 800 families were found working Ult goldmine field in Uyanga soum.

In addition, we met with more than 60 informal miners of fluorspar in several locations in Airag soum of Dornogobi province. Over 200 coal miners in Nalaikh district were met and 22 of them were interviewed.

1.5.5.2 The study shows that informal mining emerged due to following reasons and factors:

- Natural disasters hit hard herders, caused loss of source of income, impoverished them; they form the majority of the informal miners.
- Agriculture has ceased its existence due to climatic and economic difficulties;
- Privatisation and downsizing of national companies created huge unemployment especially among urban dwellers;
- The number of poor people, due to low salary, employed in the formal and some private sectors is not decreasing;
- Continuous migration to cities due to remoteness of markets, poor development of infrastructure, higher cost of goods and services, lack of jobs;
- Grown needs for families to sustain the costs of their children’s schooling in cities including tuition fees, transportation and living costs; therefore, gold mining became a way of income generation;
- Free market system changed economic interests of some people who want more financial independence;
- More mineral deposits were explored in the central, eastern and Hangai parts of Mongolia and the number of mining companies has increased.

These circumstances lead people to excavate minerals within their capacity including manual techniques.

Informal gold miners are usually migrants to the mining area - 23.9% came from soum centres, 22.5% from province centres, and 45.1% from the capital city whereas 2.8% are homeless people. 76.1% of these people earn for living of families with four or more members. Earning from gold mining constitutes 74.6% of their household income.

Monthly income of informal gold miners is 10,000 tugrugs at minimum, 240,000 tugrugs at maximum and 55679.2 tugrugs on average. 19.7% of all the respondents' monthly earning is 30,000 tugrugs, which is at the level of minimum, wage whereas 15.5% of the respondents' monthly earning is below poverty line.

The share of the each household member from the monthly income of informal gold miners provides that 39.6% of the families live with income falling below poverty line and 47.2% live in extreme poverty.

Monthly income earned from gold mining

Income (in tugrug)	Person	Per cent
30 000>	11	15,5
30 000	14	19,7
40 000-50 000	11	15,5
60 000-90 000	10	14,1
100 000<	7	9,9
all	53	74,6
Unanswered	18	25,4
Sum	71	100,0

1.5.5.3 78.9 per cent of the total respondents or most of the informal gold miners work more than 8 hours a day. Calculating statistics of working hours per day, 52.1 per cent of the respondents work more than 8 hours and 69.0 percent of the respondents do not rest on weekends and 83.3 per cent do not take to compensate the worked days on weekends.

Opencast mining operations of informal workers and the workers' work and living conditions and the technology can be described as follows:

- Opencast mine operations are undertaken under exposure to unfavourable effects of climate and weather because, it is outdoor field operation. Thus, the conditions are viewed as hazardous;
- Informal workers fetch water for panning from distance, for example in Bayankhongor province, where water streams are rare. In addition, as they are exposed to outdoor temperate, workers are prone to cold and sickness;
- Workers are involved in four -6 types of heavy physical work, such as burrowing, digging a hole, sieving gravel, carrying gravel and water and crushing stones.



... Panning gravel

Informal gold miners do not have permission to mine, because, mining outside concession is not permitted. Therefore, they mine in gold fields that are licensed to formal mining companies. Because informal miners operate without authorisation, they illegally access concession areas of formal mining companies or burrow in new areas, depending on the gold output. Working underground has several hazards 1) shortage of breath due to lack of air and inhalation of poisonous gas emitted 2) collapse of cave-ins and loose ground and other accidents, because they work in placer without wooden props. There were several cases when miners were injured or dead because of the collapse of caves made by themselves under the panning pool near concession areas.

During last 2 years, 32 people were caught in landslide and cave-ins collapse, out of which eight were dead in Bayankhongor province. 35 people died and 12 people became disabled in Uyanga soum of Uvurkhangai province during last five years. In Zaamar, soum of the province 15 people died in gold fields during last 2 years.

This manifests that occupational safety and health issues are a serious concern. Human rights such as right to live and to work in healthy and safe conditions and the right to be provided with favourable work conditions are seriously infringed in the informal gold mining sector.

Informal gold miners collect mercury from riverbeds of Boroo and sell to middlemen, kiosks traders and other miners. Mercury is used for gold amalgamation in several soums of Selenge and Darkhan-Uul provinces where hard rock gold mining is common. In these areas 63.0 per cent of the miners process gravel with mercury at home, over 20.0 per cent do it outdoors and almost 20 per cent in other place such as near mining area or river.

Handling mercury in unsafe conditions create serious health problems among miners. Chronic mercury poisoning was revealed in 17 percent (59 persons) from 341 informal miners whose biomaterials were subject to laboratory analysis by the Public Health Institute. Of the examinees confirmed having chronic mercury poisoning, 48 percent were children. Majority of the miners (67.9 per cent) covered by the same study were found using mercury for gold amalgamation. The percentage of children and adults using mercury differs. 32.8 per cent of children and 85.2 per cent of adults were found using

mercury for gold processing (Report of the Study on the Status of Health and Occupational Safety of informal gold miners, N.Saijaa, Public Health Institute).

1.5.5.4 Water is essential for survival of miners and for panning gravel. In summer, miners coming from different areas settle around water source. Over-concentration of large number of people with limited water supply creates various issues:

- Settlement of miners may cause outbreak of infectious diseases. This will affect the health of miners themselves;
- Because of poor hygiene and limited fresh water supply, diarrhoea could outbreak, especially in summer;
- According to local residents, over 3000 people gather in one area because of which miners' settlement is established in the summer. However, this large concentration of people pollutes environment since their practice is not supervised at all.



Informal gold miners in “Persian Gulf” in upper-valley of Ult, Uyanga soum, Uvurkhangai province

- Because miners do not establish waste disposal and toilet facility, their wastes contaminate environment. This exposes the population to various infections.
- Miners dig pits with no planning and supervision, they do not refill pits where people and animals fall down and get injured or even die.

1.5.5.5 The informal miners do not fully enjoy their rights provided by the law. In other words, there is a lack of appropriate policies and mechanism regulating informal mining. The consequences from this are failure of workers to exercise their rights to pension and other benefits, health care, favourable working conditions and to education.

The most serious problem for informal miners is pressure from others. 76.1% of the miners stated existence of pressure. The pressure comes mainly from formal mining companies, local governments, co-miners and local residents. The key reasons for intimidation are land related arguments and environmental concerns.

The results of the study demonstrate that the most common form of intimidation are chasing away from the field (69%), confiscation of work instruments (64.8%) and arrest (50.7%).

These forms of intimidation violate rights to work, life and physical health. It is alarming that 42.3% of the respondents said that they experience physical abuse to some extent. Usually, security officers of mining companies use force to guard the mines. Some informal miners told us that sometimes even the managers of the companies are personally involved in such actions.

Imposition of illegal taxes and charges by local authorities is another popular form of intimidation (31% of respondents replied they face such problem). For instance, MNT 3,000 is collected from citizens engaged in the informal mining sector in Buutsagaan, Bayanhongor Aimag (From interview with citizen X).

In addition to pressure from mining companies, informal miners experience other intimidations such as their mining plot with good output or extracted gold is forcefully taken away.

CHAPTER TWO: VULNERABLE SOCIAL GROUPS

2.1 Status of National Minority Rights

The National Human Rights Commission of Mongolia carried out a study into the implementation of the rights of Tsaatan, a national minority in Mongolia that resides in Tsagaannuur soum, Khuvsgul province.

National minority is a particular group of people who form minority in number compared to the majority of the population of a country who are distinct in terms of race, colour and culture, and who possess interest in preserving their specifics (A Handbook of International Human Rights Terminology, H. Victor Condé, p. 102).

The study involved the Tsaatan individuals residing in westerner and easterner taiga, Tsagaannuur soum, Khuvsgul province. In addition, students of Tsaatan origin in Ulaanbaatar, secondary school pupils and teachers in Tsagaannuur soum, poor and extremely poor Tsaatan individuals who live in the centre of Tsagaannuur soum and Tsaatan herders were involved in the study. We carried out survey among 50 percent of Tsaatan individuals, half of the adults who live in taiga.

Moreover, we conducted individual interview with 30 people. In addition, three types of group discussion were organised involving secondary school teachers in Tsagaannuur soum, Tsaatan individuals including students studying in Ulaanbaatar, scholars and experts of reindeer studies.

We also examined documents such as local government decisions on Tsaatan population, civil and livestock registration files in possession of the offices of the local governors of Murun town and Tsagaannuur soum in Khuvsgul province. Furthermore, during the study we explored programmes, projects and actions taken for the Tsaatan.

2.1.1 The Tsaatans reside in high mountains, 1000 km away from Ulaanbaatar, 300 km away from the centre of Khuvsgul province, 50-70 km away from the centre of Tsagaannuur soum. These mountains are mossy pastures covered with snow and ice, located between 52°-60° of the northern latitude and 98°-102° of longitude of the earth. The temperature reaches -29-53 C below zero in the winter and 12-23 C above zero in summer time. The average annual precipitation is 320 mm. The mountains are elevated 2500-3500 m above the sea level. The climate is severe radical.

2.1.2 The taiga residents started countering difficulties and they now earn their daily living by hunting wild animals, slaughtering the reindeer in great numbers, and trading with horns of the reindeer, privatised during 1990's.

Due to annual removal of horns, the reindeer have been subject to diseases, less reproduction and becoming smaller in body size. Moreover, collapse of fishing industry made the Tsaatans, who had been working there, to move back to the taiga thus increasing the human population in the taiga yet decreasing reindeer population. Certainly, another factor that influenced on decreasing number of reindeer is related to the fact that during

privatisation no attention was paid to preserve procreation breed for the reindeer venture and no nursing of reindeer for restoring to health and reproduction facilitation has been done based on the argument that reindeer are now private property.

In 2002, a civil registration of the Tsaatans in Tsagaannuur soum was carried out. Now there are 493 Tsaatans of 114 households residing in two baghs of Tsagaannuur soum: 240 males and 255 females - 39,9% are children aged 0-16; 19,8% are young persons aged 17-25; 20,2% are adults aged 26-35; 15,2% are adults aged 36-60; and 4,6% are the elderly aged above 60.

Survey of human and reindeer population living in the taiga only (as of 2002)

No	Location	Household	Person	Out of which		Reindeer	Livestock of Mongol breed
				Male	Female		
1	Westernern taiga	22	110	51	59	385	427
2	Easternern taiga	20	97	46	51	178	167
Total		42	207	97	110	563	594

2.1.3 According to the records of the bagh Governor in 2002 there were 385 reindeer in westerner taiga. But according to our data of August 2003 in the westerner taiga there were 512 reindeer. In general, it is not easy to draw accurate number of reindeer. Some people even argue that during the festivity of 1000 reindeer in 1990 the number of reindeer was less than one thousand. Moreover, it is also related to the beliefs among the Tsaatans not to disclose the actual number of their reindeer.

Supposing that 42 households in the easternern taiga possessed 563 reindeer as of 2002, average per capita distribution of reindeer would be 2.7. This year three more households were created in the taiga totalling the number of households 45 and human population 210 (Records made by G.Buyantogtokh, taiga bagh Governor).

2.1.4 Out of 42 households living in the taiga, Tsagaannuur soum, 33% are extremely poor and 38% are poor. Difficulties of livelihood and lack of income generation possibilities impact on good old tradition of raising, breeding and caring for the reindeer. A clear example is that in the easternern taiga people remove horns of each reindeer whereas in the westernern taiga better off households almost did not remove the horns.

Another tragedy among the Tsaatans in the taiga is the spread of tobacco and alcohol, which result on frequent petty and serious wrongdoings towards one another, particularly children, the elderly and women.

2.1.5 Implementation of minority rights

2.1.5.1 Right to retain their culture. Tsaatans maintain their traditional accommodation which is 3-4 meter long tent, made out of tree put together as a wall. Larger tents have 28-32-tree wall and small tents have 17-23-tree wall used in a temperature ranging from 31 C above zero to 53 C below zero. Previously the tents were covered with skin of wild animals or reindeer or with tree splint. As a result of a survey conducted in 1970 all the tents are now covered with tarpaulin.

An important national identity of the Tsaatans is their lifestyle and culture related to reindeer breeding. However, in recent years, the number of reindeer fell sharply and it makes the Tsaatans to move to the steppes from taiga and forcing them to forsake their own culture and lifestyle.

As a consequence of the policy to centralize Tsaatans during socialism the taiga became deserted and inhabited, therefore conflicting with culture and lifestyle of Tsaatans. Even today since there are no specific policies or programs and actions taken, this eccentric way of living is in danger of eventual extinction.

The following customs are the activities, which starting from their birth till death, are peculiarities which differ them from the others:

- Marriage ceremony (nuptials)
- Sepulture (burial ceremony of children)
- Haring reindeer
- Hunting (specially bear hunting)
- Construction of traditional tent
- Moving and settling traditions

Foreign and domestic scholars and scientists studying the Tsaatan sacrament prove that to some extent their lifestyle still preserve form of tribal (clan) living style. For example, according to a study conducted in 10 families in the Taiga, in 2002, demonstrated that these families divided their food equally and finished it exactly on the same day. In addition, their burial customs and tradition still preserve its ancient style. Today heritage traditions of Tsaatans such as their possessions, accessories, clothing, costumes and traditions are almost totally destroyed. Due to modernised lifestyle the Tsaatans have been quitting their aye boots and saddlebag. Likewise, they are forgetting their own language and tradition.

Unawareness of the Tsaatan culture and tradition not only on the part of other segments of the population but also the Tsaatans themselves requires positive actions. For instance, the establishment of local museum to explore the countryside used to help raise awareness on Tsaatan ethnicity and their lifestyle among the general public, preserve and convey their peculiar way of living and customs to the next generation. As reported by Mr. Bataa, Director of the Fishing Factory in Tsagaanuur soum and founder, the museum was shut down and some of the exhibitions, belongings of the museum have been destroyed and lost.

2.1.5.2 Right to religion. The Tsaatans have always been worshiping the shamanism. Though shaman ceremonies were restricted during socialism, they have maintained their religious culture until today.

Today, a ninety year old heredity sorceress Suuyan is living healthily in westernern Taiga. During the study we found out that each Tsaatan family has their own amulet or protective charm, considered as soul and spirit of their ancestors, placed in the most respected part of their traditional tents opposite to the door. However families of the same tribes have

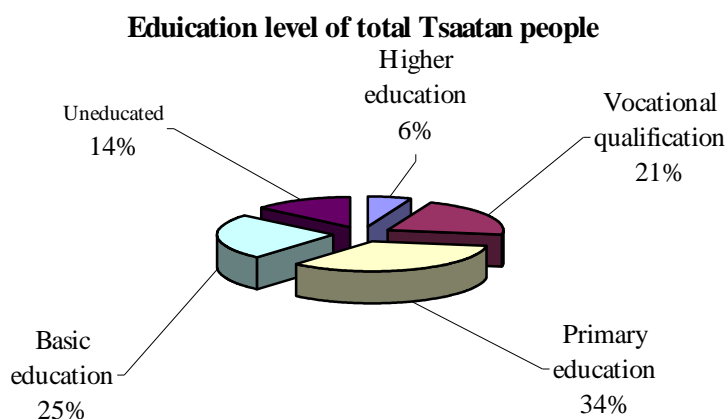
different worshipping places and each year they pay 1-2 visits to their worshipping places. Mr. Dagjii, best Tsaachin of the nation, said that “Our worshipping place is located in a far away Ulaan-uul soum which borders with Russia. We need to go to Ulaan-uul soum center for permission if we want to pay visit. Sometimes when we manage to get there relevant officials who issue the permission is usually not in the office. If we go there without any permission we are suspected as illegal trespassers of border“. Otherwise, there is no other serious infringement or discrimination of the rights of the Tsaatans to exercise their freedom of thought, opinion and expression and right to religion.

2.1.5.3 Right to exercise the native language. Tsaatans speak both in Tuva and Mongolian languages. The government used to train teachers of Tuva language according to specific policies. Currently, there are five teachers who had been trained as instructors of Tuva language including two kindergarten teachers, two secondary school teachers and one Tuva language and literature teacher at the secondary school. None of them teach Tuva language now; only three work as a primary school teachers. A few teachers from Tuva State of the Russian Federation had been invited to the school to teach Tuva language for Tsaatan children. However, this good practice is now interrupted. Although the above-mentioned few local instructors could teach Tuva language, the subject was removed from the curricula due to the negligence of the local authorities and lack of school initiative.

Nowadays Tsaatans use Tuva language only for basic-everyday conversation and, in particular, children’s knowledge of Tuva language is very limited no more than basic vocabulary. The elderly are worried that young children could forget or not know their native language since Tuva language is not taught at school. Some representatives of the Tsaatans made request to relevant government officials to have their native language taught in secondary schools. Ms. T. Gandi, a member of the Parliament, replied to them that it is possible that Tuva language could be taught at school starting from 2005.

2.1.5.4 Economic, Social & Cultural Rights. Out of 272 people who are able to work, 58 or 21.2 percent are unemployed. Only 6.6 percent work in public sector and the rest of them are considered to be Tsaatan herders. In the past, they worked in fishing and hunting industry which satisfied their basic needs and livelihood. The fishing factory was established in 1956 with 30 employees and necessary materials and technical environment. However, in recent years, since no policy or program, specifically tailored for this minority group, is implemented and sudden decrease of number of reindeer is making them even poorer. The “Reindeer Fund” established the “Tsaachin” cooperative. However, due to the lack of turnover property it is no longer in operation.

2.1.5.5 Right to Education. The education level of the Tsaatans is very low. In the taiga, a person possessing specialised vocational qualification is considered to be highly educated. We met illiterate people even though they claim that they graduated from secondary school. The ones who possess higher education live in the center of Tsagaannuur soum. 64 percent of the survey respondents possessed primary and basic education.



Source: Report from Mr. Buyantogtokh, Taiga Bagh Governor, 25th January 2002

According to the social worker of the secondary school of Tsagaannuur soum, the school enrolls 322 children out of which 93 or 28.3% are Tsaatan children. 28 pupils out of 93 come from the taiga and the remaining 65 children come from soum center or from households in low land.

There are 102 children aged from 0-16 living in western and eastern taiga and out of 102, the majority of school-aged boys are school drop-outs who live in the taiga. As much as they help their families raise reindeer, hunt, and do every hard work required in the taiga life, they obtain bad habits such as smoking and drinking. 17 or 37.7 percent of children aged 8-16 living in the taiga dropped-out of school. 'In 1997, more than half of 78 school-aged children living in the taiga were not able to go to school due to the lack of money to buy clothes, food, books and etc' (*Source article written by M. Nayamaa in "Ardiin Erkh" daily newspaper "Tsaatans and reindeer abandoned in the taiga" in 12 May 1997*). Since that time, the number of school drop-outs has decreased by 10 percent as demonstrated by the following figures:

Number of children enrolled in school over the last 5 years:

Year of entry	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Number	8	8	14	21	14
Percentage	21.6	19.5	34.1	32.3	22.2

Number of Tsaatan children graduated from 8th grade of secondary school over the last 3 years:

Year of graduation	2000-2001	2001-2002	2002-2003	Total
Number	3	6	13	22
Percentage	27.2	42.8	46.4	38.8

The number of children enrolled in 9th grade over the last three years:

Year of enrollment	2000-2001	2001-2002	2002-2003	Total
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Number	3	3	9	15
Percent	100	50	69.2	73.0

Source: Study by Mr. S. Dushnuu, curriculum coordinator, and Mr. M. Erdenebat, social worker of secondary school of Tsagaannuur soum

The intellectual capacity and abilities of Tsaatan children to learn, acquire the required standards, quality of their learning do not differ from that of other children. However, Tsaatan children stay in the taiga until they come to school. As a result, they encounter language and communications difficulties in understanding and expressing themselves which discourage them from learning. Tsaatan children use mixed language for communications within their families, both Tuva and Mongolian, until they go school. Yet they live in a condition where they cannot attend pre-school education institutions for wider communications. When they enter secondary school they speak both Tuva and Mongolian language with a very limited knowledge of the both languages.

One of main guarantees of the right to education is the teaching standards, accessibility and learning environment. The secondary school of Tsagaannuur soum was burnt down in 1998. Fortunately, with the initiative and assistance of “Reindeer Foundation”, a non-governmental organization, a new school building was built and started its operation in April 2000. Yet, there are a number of constant problems such as absence of library, quality of teaching and overcrowdedness in the dormitory. According to the results of the examination done by the Education and Culture Department of the province on the quality and standard of the province schools, the school was evaluated as the fourth from the last place. The table below shows the reasons of this evaluation.

As far as the dormitory is concerned, it now accommodates 100 children although it is built for 65 children; thus the budget for 65 children is allocated for 100 children. There are also temporary difficulties like electricity shortage in the school and dormitory during our visit.

No	Criteria for evaluation	Maximum point of evaluation	Actual point of evaluation
1.	Management and organization	7	4.14
2.	Technical conditions	5	2.88
3.	Composition and qualification of teachers	6.5	3.7
4.	Quality of teaching	10.5	3.7

Source: Result of examination made in secondary schools of Khuvsgul province, evaluation incorporated by M. Mishighkhoo, methodologist of Education and Cultural Department

The province authorities organise re-training courses for the soum teachers. However, teachers from Tsagaannuur soum have not sufficiently benefited from these re-training courses. For instance, only four teachers of the primary school attended short term training organized by the province 5 years ago except one who attended the course in November 2003. The decision of the school authority, which forced teachers to work during students holiday season, in the name of saving state budget, created conflict between the school

authority and teachers which had adverse impact on teachers efforts to work creatively and effectively (*during focus group discussion with teachers of secondary school of Tsagaannuur soum*). There are five Tsaatan teachers working in secondary school of Tsagaannuur soum.

The poor quality of the education provided by the soum secondary school has negative impact on students to obtain higher education degree in the future. During the discussion with Tsaatan students studying in Ulaanbaatar, they said that the main difficulty for them starts from entering 9th and 10th grades even colleges, universities because they feel not very competent due to the poor quality of education they obtained in the secondary school. As a result, they have to enter colleges and universities that are not officially accredited by the state and not entitled to obtain loans or grants from the government. In addition, even if they manage to obtain grants for tuition fees from other sources such as organizations including the “Reindeer Foundation” or any other individuals, they still face problem of finding other expenses such as accommodation, books, transport fees and etc. In addition in most cases Tsaatan students do not have any relatives or family in the city and these children could manage to stay in the city for 1-2 years and return home.

2.1.5.6 Right to health and medical care. Due to cold and harsh weather in the taiga, illnesses of different types are common among the Tsaatans. The most common illnesses are high blood pressure, eye problems, rheumatism and sore throat. Cold weather during winter, spring and autumn causes high rate of illness. The Tsaatans always encounter problems in accessing medical care in the soum center due to the roads being blocked with 40-60 cm snowfall. The following table shows the availability and actual conditions of medical assistance:

Location	Season	Distance from the soum center	Type of transport			Possibility of obtaining medical assistance
			By horse	By reindeer	By car	
Eastern Taiga	Winter	35-40	+	+	+	Within the day
	Summer	50	+	-	-	2 days
Western Taiga	Winter	50	-	+	+	4 days
	Summer	50	+	+	+ (1/2 way)	2 days

The knowledge and information about health insurance among the survey respondents were extremely poor. When they were asked if they had health insurance card they replied that they had had it but they never mentioned about payment for health insurance. During the survey we asked if we could see their health insurance cards but most of them replied that they did not have it or their cards were kept in the soum hospital. This proves that the local authorities and medical practitioners of the soum hospital need to take certain action in this regard. With regard to people who need to be voluntarily covered by health insurance, they are not able to pay the insurance premium due to weak financial capacity. In addition, 13

people or 35 percent of the survey respondents mentioned that fuel costs for calling medical assistance from the center are claimed from them to be paid.

Sometimes fuel costs are paid by the clients under the condition to be given back but never done so. This has very bad impact on poor and extremely poor households who form 70% of the taiga households particularly the ones far from the soum center. The Tsaatans mentioned that they face many problems such as not being able to see or visit doctor if they become ill or they do not have sufficient medicines and etc. In July 2003, a doctor visited the taiga for health check-up. The Tsaatans never had proper and professional health examination.

However this year a few French doctors visited the taiga and carried out health check-ups of these people and provided medicines. In the past, the Tsaatans had traditional ways and methods of curing people using rare plants and organs of animals. For example, licking a sable's bile for sore throat, drinking pomegranate juice for lung problems are considered as effective ways to cure diseases. However traditional medicine is almost fading away and very few people now know about the detailed description of such curing methods.

2.1.5.7 Right to material and financial assistance. According to data of May 2002, 14 or 33 percent of households living in the taiga are extremely poor and 16 or 38 percent are poor. Compared to other seven soums and one village belonging to the same tourism region, the number of poor households in Tsagaannuur soum is 16.7 percent higher and the number of extremely poor households is 6.3 percent higher than the others. This demonstrates that livelihood of Tsaatan households is much harsher.

The benefits and services provided by the social welfare services are inadequate and there are no specifically tailored programs or plans aiming at poverty reduction of Tsaatans. The Tsaatans mentioned that if they had herds they would be able to improve their livelihood. However, the Tsaatans cannot also benefit from livestock granting projects because they do not meet the criteria which require households to have 10-20 large cattle. In reality, there are only one or two Tsaatan households which would have this amount of cattle.

In recent years, non-governmental organizations, foreign and international organizations have been providing assistance and help for these people. However this assistance is only one-time or temporary in nature. Consequently, the quality and sustainability of these projects are inadequate. Furthermore, the negligence and negative attitude of local authorities also add to the situation. There is no research or assessment on the effect and compliance of the assistance with the needs of the Tsaatans.

2.2 Status of Social Protection of Vulnerable Social Groups, Rights for Material & Financial Aid Prescribed by Legislation

The legal environment of social welfare policy is being served by a whole set of law packages such as the Social insurance law package adopted in 1994, the Social welfare law package of 1995 and the Law on Employment Promotion approved in 2001. One may probably iterate that the legal basis of social welfare domain is existing at last.

Social welfare. Today the citizens of the extremely vulnerable social layer are being provided with essential aid as pension, various allowances and privileges in frames of the social welfare policy. These are:

- Provision of permanent care and lodging facilities to elderly and disabled as well as free meal and free shower to poor, homeless citizens and deserted children;
- Apartment rental fee, medical service, wheelchairs, hearing aid to the same category of citizen and to the general needy people;
- Financial assistance from the Social Welfare Fund in a form of pension and a great variety of allowances such as pregnancy and maternity leave allowances, full orphan adoption or custody aid and allowances to those not meeting pension issuance requirements.

Social insurance. Pension and allowances issued through this system of social aid is procured from the resources of social insurance taxation system both employers and employees. The amount of aid is defined depending from working years, age of the beneficiary and some other conditions. In the field of social insurance of Mongolia there are functioning five basic funds such as:

- pension insurance;
- allowance insurance;
- unemployment insurance;
- health insurance and,
- work accidents and professional diseases insurance.

Employment promotion. Currently a state social policy aimed at boosting of labor market development is being carried out in Mongolia. In frames of this policy the following forms of service are provided:

- Promotion of employment of disabled, elderly and the citizens belonging to vulnerable groups with a view to provide them the adequate type of work having in mind their capability, skill and labor experience;
- Training youngsters who have no specific skill and are unemployed;
- Arrangement of new working places for the unemployed;
- Providing limited loans to commence a business;
- Promotion of employment through the network of labor market services.

2.2.1 Current situation with social welfare. With adoption of a whole package of laws on social welfare in Mongolia in 1995 the legal basis for providing the essential social assistance and protection to those who are not capable for self-maintenance in order to guarantee survival. In a later stage as an amendment of the Law on Social Welfare and a renewed version of the Law on Social Welfare had been adopted in 1997 and in 1998 accordingly an independent and autonomous management mechanism of social welfare has been set up at last.

Today it has become routine daily activity that those needy people are given monthly pensions or provided with discounted service at the centers of social welfare and service. The extremely poor and full orphans receive free meals for a certain limited period of time and other types of social assistance. The national charity institution and the local units are being financed directly from relevant budget files and are spending the resources in order to provide shelter, food, clothing, medicine and rehabilitation in conformity with the provisions of the law.

Today in the system of social welfare are employed 720 people including the personnel of the State Department of Social Welfare, its affiliates in 9 districts, local centers in 21 aimags and 1 employee in each of 340 soums and in homes and resorts of elderly and veterans.

As it is formulated in the balance sheet report of the State budget execution for the purpose of delivering pensions and allowances 7 billion MNT has been spent in 1997 and already 20 billion in 2002. The State budget provides 95.4% of total financing of social welfare and 4.6 percent is being delivered from local budgets.

The principal beneficiaries social welfare cause are the elderly, orphans, disabled and extremely poor population.

2.2.1.1 Social welfare pension. This kind of pension is completely different from the pension being paid to elderly, dependents left behind and to disabled what concerns its sum and content.

The social welfare pension is a sort of aid granted to people who have no one to could care about them or to those who found themselves in no-way-out condition. This pension is given to inborn disabled or people who are not in position to earn on their own due to health condition or had never worked.

In early 1997 23163 people had received such aid for the sum of MNT 1531.9 million. In 2002 the number of recipients grew to 37303 and the aid volume had been consequently increased to MNT 5853.3 million. There is a strong trend of stable increasing of these figures in future. For instance as the extrapolating of this trend predicts in 2005 the number of beneficiaries shall rise for 54.5% and the funding to be procured for this very purpose shall skyrocket 2.5 times.

In the recent 5 years the expenditures for this purpose had increased 3 times. Today 1 of every 4 person is being granted some kind of social aid. Nonetheless it must be recognized that the effect to improve living standard of a family is still negligible, alas. This fact may justify a new approach to the matter meaning that the social welfare funding should provide the minimum of vital necessities and then to promote the ways and means of self-sustenance. That means the form of pension in cash, which is in fact encouraging parasitic passive attitude should be minimized and diversified by implementing other more constructive assistance. Thus this form of aid shall become a combination of pension with new creative initiation of the recipient.

**Types of social welfare pension and the volume
(in million MNT)**

	Types of SW pension	1997	1998	1999	2000	2001	2002	2003
1	Elderly male of 60 and older, female of 55 and older who are nor self-sustainable and have no children to take care of them							
2	Single father of 50, mother of 45 having 4 and more children and extremely poor							
3	Disabled who had lost more than 70% of working capability							
4	Teenagers with congenital disability who reached 16 or adults who became disabled at the age under 16 (working capability diminished for 50 and more %)							
5	Blind, mute, deaf people and dwarfs							
6	Those who became disabled while serving their civil duties as rescuing, battling with extremely contagious infections or natural disaster							
7	Dependents left behind							
8	Family members of those who fell victim while serving their civil duties as rescuing, battling with extremely contagious infections or natural disaster							
	Total							

Types of social welfare pension and beneficiaries

	Types of SW pension	1997	1998	1999	2000	2001	2002	2003
1	Elderly male of 60 and older, female of 55 and older who are nor self-sustainable and have no children to take care of them							
2	Single father of 50, mother of 45 having 4 and more children and extremely poor							

3	Disabled who had lost more than 70% of working capability							
4	Teenagers with congenital disability who reached 16 or adults who became disabled at the age under 16 (working capability diminished for 50 and more %)							
5	Blind, mute, deaf people and dwarfs							
6	Those who became disabled while serving their civil duties as rescuing, battling with extremely contagious infections or natural disaster							
7	Dependents left behind							
8	Family members of those who fell victim while serving their civil duties as rescuing, battling with extremely contagious infections or natural disaster							
	Total							

2.2.1.2 Social welfare allowances. This is one of the basic social welfare grants. If the candidate for recipient meets the requirements it is being issued without taking into account the living standard conditions of the client. From this point of view this type of goodwill action is losing its sense of being social welfare act.

In 1997 altogether 557309 people had been granted this sort of social welfare allowance totaling to MNT 3'897.2 million. In 2002 the proportion of these figures had changed dramatically making 129417 beneficiaries and the total sum jumping to MNT9506.2 million. The majority of mothers having maternity leave were unemployed single homemakers.

Types of social welfare allowance and the volume

Indication		1997	1998	1999	2000	2001	2002	2003
Pregnancy allowance								
Maternity leave allowance								
including	One child							
	Twins							
Mother of several children								
including	One time							
	5 and more children							
Neonatal's allowance								

Twin's							
including	2 children						
	3 and more						
Full orphan							
Single elderly							
Total							

Types of social welfare allowance and beneficiaries

Indication		1997	1998	1999	2000	2001	2002	2003
Pregnancy allowance								
Maternity leave allowance								
including	One child							
	Twins							
Mother of several children								
including	One time							
	5 and more children							
Neonatal's allowance								
Twin's								
including	2 children							
	3 and more							
Full orphan								
Single elderly								
Total								

2.25.1.3 Social welfare privileges. The Social Welfare fund is being used to provide some service to elderly, disabled and poor families in a form of granting certain privileges. In fact this type of aid is being issued not to the needy people exclusively. This assistance is shared to retired ex-state officials, to top rank eminent figures honored by state awards, veterans of the Khalkha-Gol battle, of the WWII and of the 1940-1948 armed confrontation on the West frontier of Mongolia and to the family members of victims of these events. Thus by such vast list of sharing the sense of social welfare is being lost and becomes an additional source of income and an odd form of incentive.

As for the elderly since the aid in this privilege form is being used to promote their health condition and livings it becomes real social welfare contribution to them.

There are 15 types of such privileges provided for disabled. For them it is one of essential sources of survival.

In fact the list of beneficiaries of the social welfare assistance be it pension, allowance, privilege it is too vast making the sharing amount symbolic. So despite the fact of being shared it has practically no meaningful effect to promotion of living standard. Actually the privilege titled fund portion is being spent to provide 48 kinds of assistance service. Besides 21 of them has nothing to do with vulnerable people and directly go for the benefit

of retired high rank officials or laureates of elite honor, therefore to the veterans of war and as recognition of one's excellent deeds.

Despite this huge scale of granting list the countryside has access only to 4-8 types of privileges. There are cases when the person in the list had never seen any of them.

Thus basing on the facts as revealed above it is recommended to revise the list and criteria of the social welfare fund distribution and make it more rational so that the priority shall be given to poor and extremely poor families. Doing that the attitude of granting policy should parallelly focus on promotion of self-sustaining capability of the beneficiaries.

2.2.2 Disabled beneficiaries

2.2.2.1 Disabled community parameters. There is a statistical figure accepted as official and that is 115000 disabled citizens. This contingent is consisting of:

- mentally retarded – 16100;
- those mute and with impaired hearing – 18975;
- those with impaired sight – 15295;
- those with defected extremities – 28980;
- those with psychic disorder – 12880;
- those with combined disability – 15065;
- miscellaneous disabilities - 8305

The last year report of the National Commission of Employment civil rights of disabled had been deliberated first time whatsoever. Thus the figures of this report and our data may differ to some extent. Please, acknowledge here are mentioned the figures collected from the last year statistical data bank in the countryside and are not absolutely complete besides.

The state policy concerning the matters and rights of disabled is limited to providing financial aid only so far. In other words practically nothing is done to promote their ability to make their lifestyle self-sufficient.

2.2.2.2 Rehabilitation treatment is the crucial assistance to disabled. Unfortunately the level of rehabilitation treatment in Mongolia is backward. As the professional specialists claim only 5% of disabled are restoring their labor capability.

It is of prior importance to carry out preventive policy aimed at avoiding accidental disability, at securing good health by means of providing labor security, healthy and hygienic working conditions rather than to bear immense expenses in the name of social welfare. Pitifully prevention of accidents and congenital malformations due to abuse of alcohol by parents and/or hazardous labor conditions is ignored to much extent. Thus it is of utmost importance to create legal environment ensuring ecologically favorable and ergonomically and technologically secure working conditions and obliging the authorities to constantly focus on healthy and hygienic labor protection.

Therefore new attitude is actual to the tasks of providing healthcare and rehabilitation assistance to disabled, to prevent deterioration of health conditions and further progressing of basic maladies aggravating disability and of other probable consequences. It is important to provide highly professional assistance in smooth adaptation to the new reality of disability and to restore self-confidence and labor capability, to train new skills acceptable in conditions of diminished capacity. Indeed this is the lion part of effective social welfare measures.

2.2.2.3 Promotion of employment of disabled. In accordance with the statistical data of WLO the employment rate of disabled is 2-3 times lower than that of healthy citizens. Besides the typical situation is that the disabled people are in general employed in low rank and low paid positions.

The social policy of promotion of living standards of disabled should strive to create acceptable working places and jobs, to socialize them back into healthy surroundings. Out of 154000 disabled at present 21400 are in employable health conditions. In reality only 7000 are working. The survey work reveals the real reason for such low rate of employment. The vast majority of respondents to our questionnaire and, especially to the question “What service the State does not provide you?” the prevailing answer was “The State does not provide employment”.

The main reasons of low employment rate among disabled are as follows:

- they are extremely exposed to accident probability;
- low productivity;
- shortage of working place.

This means that in conditions of market economy the chance to provide reliable working place for disabled is seriously diminished. The reason of shortage is that creation of working place for disabled requires additional expenses, which may barely be reimbursed by the labor output results. It is evident that a special target oriented policy is needed from the part of the state and broader participation of charity organizations.

2.2.2.4 Unemployment insurance fund is providing allowances for those disabled who has been working for at least 2 years and has been continuously paying taxes for the last 9 months. The amount of allowances shall depend from the salary volume the recipient had been earning and from total years he has been paying taxes.

This current regulation is lower than the international standard by 3 criteria. Firstly, the requirements to deserve unemployment allowances are too strict making it inaccessible for many insured disabled. Secondly, the amount of allowances being granted to those who had worked less than for 5 years is for 50% lower than the average salary defined by WLO as standard. Thirdly, the 76 days period of issuing the mentioned allowances is much shorter than 6 months as regulated by the ILO.

CHAPTER THREE: CONTEMPORARY HUMAN RIGHTS ISSUES

3.1 Actions of Law Enforcement Agencies & Human Rights

3.1.1 Torture is the severest crime violating human rights. The State Great Khural had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2000.

Provision 1 of CAT defines the act of torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.

In other words the definition of torture in CAT highlights:

- any act causing severe pain or suffering, whether physical or mental;
- torture includes not only physical pain but also other types of suffering;
- the act is intentionally inflicted to the victim;
- the act is aimed at obtaining information or extracting false confession;
- the act is perpetrated by a public official or other person acting in an official capacity.

3.1.1.1 It must be mentioned that although Mongolia had joined CAT five years ago nevertheless nothing practically is done in order to publicize this key international instrument to the broad public and, especially among the staff of law enforcement institutions. No compulsory step is made in order to prevent such crime (article 2 of CAT) or to introduce amendments into the existing legislation prohibiting torture and prescribing punishment for the wrongdoers.

In the criminal Code adopted on September 1, 2002 the terming “torture” is not even mentioned and in the disposition of article 251 (forcing affidavit) the principle sense of terming “torture” is not reflected at all. Furthermore the lawmakers had failed to include in the Criminal Code the concept of the article 4 of CAT declaring corrupted prosecution as a crime of extraordinary violence and the responsibility for such crime is left out in article 251 of the Criminal Code.

The Law on Criminal Proceedings states that it is prohibited to force confession, to use inhuman brutal methods and/or abuse one’s human dignity (article 10.4). However, nothing is mentioned in LCP by means of a special article or otherwise how to make use of and to assess or to acknowledge as evidence the information and other evidence obtained by torture.

In addition the lawmakers again had dropped out from LCP the formulation of article 15 of CAT stating that every member-state is obliged to refrain from using the information obtained by torture except using it as evidence against the perpetrator.

Actually article 16.3 of the LCP states that the inquiry officer, detective or the prosecutor are prohibited to exercise psychological suppression or force the suspect or respondent to confess against himself. From the other hand, article 92.4 of the LCP prohibits to collect evidence by abusing human dignity, to act inhumanly and brutally, to menace, to forcibly obtain confessing or by deceit. Nevertheless there is not provision instructing what to do with the information already obtained or filed in the case, neither whether it may be used or not as evidence.

However, in the process of criminal investigation and prosecution human rights abuse is permanent and it is the most general practice so far. Violating of human rights commencing at the very start of the case compiling and all through the prosecution process is never abandoned. Suppressing mentally, exercising physical and psychological suffering from the part of officials, then putting the suspect with prisoners for the latter to force out the necessary confessing, changing the cells for everyone to abuse the suspect is the classic routine of diminishing. Besides the unbearable detention facilities, rejection of visits are completing the worse technology still practiced.

3.1.1.2 There is another “tradition” developed recently and contradicting every principle of legal ethics and the provisions of law. It becomes the favorite method in the case of major scandalous affairs. Such suspects are being convoyed to other preliminary detention centers of Tuv, Darkhan-Uul, Selenge Aimags and in Zuunkhara to be tortured mentally and physically by nothing-to-lose cellmates.

This illegal method is becoming “progressive experience” for the local detention staff in the countryside. They now broadly exercise the method of “exchange” of prisoners in order to diminish one’s mind and the sense of personal human dignity and to achieve total collapse. Claims concerning such malpractice in Uvs, Bayan-Ulgiy and Khovd, the three Western aimags are arriving in ever growing numbers. For instance, an officer of Uvs detention center had kept a woman prisoner, sentenced for property machination, in Bayan-Ulgiy detention camp for about 300 km far from her home Aimag.

Such sadistic malpractice is severely damaging health and mental condition of detainees and is a convincing evidence of corrupted violation of law by justice officials. The main purpose of such methodology is to fully isolate the detainee from his lawyer, family members and relatives, from access to receive legal assistance and to submit his will or complaint to higher justice institutions including the State General Prosecutor. Such detainee is becoming totally paralyzed to defend his interests and human rights.

This shocking practice is brutally violating the provisions of the Law on Detention and Custody of Suspects and Detainees which prohibits to forcibly obtain confessions or to mentally and physically torture the detainees.

Article 180 of the LCP prescribes that “prosecution of criminal cases shall be carried out in the place where it has been perpetrated”. Since preliminary custody is part of the prosecution process, detention should take place locally in the facilities of the institution where investigation is being unfolded.

3.1.2 In conformity with the joint recommendation of the Minister of Justice and Home Affairs and of the Chief Commissioner of the National Human Rights Commission an inspection of all detention centers had been arranged late in 2003 and the relevant summarizing report delivered.

It is already 7 years as the LDCSD had been adopted in 1997. This law had formulated the standard requirements of detention premises. A few years ago the management of detention facilities had been shifted to the court and nowadays the court is issuing the permission for detention. The detention premises are in awful conditions and this fact is constantly criticized publicly. Pitifully nothing is being done to introduce a minimum improvement at least. This situation must be put in focus.

3.1.2.1 Detention sites, life span, their original purpose. There are 22 detention sites in the country. Except two locations practically all of them had been erected as prison site. In Dundgobi Aimag the detention center is a former garage and in Gobisumber Aimag such site is a former Russian military base hospital reconstructed into a prison. Ironically the latter two are meeting better the requirements prescribed by law.

As for operational life span the Arkhangai Aimag prison is functioning for 26 years, the prison of Zavkhan Aimag for 22 years, and of the Tuv Aimag for 20 years. Detention sites of other 12 Aimag are in operation for 10-20 years and in seven other Aimag the prisons are relatively new being exploited for less than 10 years. As for engineering conditions of the buildings in general the sites are in relatively good or acceptable condition. However, several of them should be renovated urgently. For instance, the prisons of Zavkhan, Bayan-Ulgii, Gobi-Altai and Khovd are practically in critical condition.

As for construction structure in 8 Aimag the prisons are made of iron bar concrete sections, in other 14 Aimag – erected by brick laying and concrete panel combination.

As for location the detention centers of 8 Aimag are positioned in the underground, i.e. on ground zero. In other 3 Aimag these facilities are of semi-cellar type. In 11 Aimag the detention centers are having ground floor location. The Aimag prisons have identical construction design, i.e. having no window or ventilation hole looking out.

All preliminary detention centers including the one in Ulaanbaatar have in total 431 cells. Only 41, i.e. 10 percent, of cells have windows looking out. The cells are located back-to-back in the middle of the building looking into corridors on both sides. Thus three walls of a cell are blind. The wall opening into the corridor has an iron door, which has in the upper part a barred window for the light to penetrate and in the middle a spy-hole. In order to provide better ventilation in some Aimag an opening for the air is made in the lower part

of the iron door. The small windows in the corridor limit air-conditioning and natural light access.

Thus it is practically impossible to meet the requirements prescribed by LCDS by means of minor renovation or reconstruction.

3.1.2.2 Capacity of detention centers, air-conditioning and natural light access. As mentioned above there are 431 cells in all the detention centers nationwide making 4,957.3 m² of space. At the time of the inspection there were 1,674 prisoners, which means 2.9 m² per inmate allocated at the time.

In Gants Khudag preliminary detention center of Ulaanbaatar we have found 798 people detained. Actually the capacity of the site is 1,086 inmates. In reality in a cell of 8 m² there were detained 5 persons and in another cell of 18 m² we have found 7-8 inmates. All these mean that inmate density per cell goes far beyond the limit previewed by the law despite the factual sufficient capacity. Thus in 12 Aimags, including Bayankhongor, Bulgan, Gobi-Altai, Darkhan-Uul, Dornod, Zavkhan, Khovd and in Khuvsgul the average room space per inmate was 2.5 m². That means in case of increasing the number of detainees the prisons shall be overpopulated. For instance, in Dornogobi Aimag we saw 26 prisoners but we were told that from time to time it may raise up to 60-80 detainees. The mostly populated facilities were in Orkhon Aimag – 103 inmates, then in the Tuv Aimag – 94, in Darkhan-Uul Aimag – 82, in Dornod – 69 and in Khuvsgul – 58 inmates.

In conformity with the provisions of the law the cells must be installed with air-conditioning and with natural air circulation openings. So far this minimum standard is lacking absolutely. The cells are opening into the corridor only and are shut down by iron doors. Some corridors have no window at all or they are too tiny. As the specialists deem there is no way to provide normal air-conditioning having in mind the existing construction design. In wintertime the corridor windows are shut dead. The only way out is to install air-conditioning kit line. The law previews such solution as well. Such installations are in Tuv, Dornod, Darkhan-Uul, Umnugobi Aimags and in Gants Khudag detention center of Ulaanbaatar only. These facilities are operated from time to time for a short duration. For instance, at Gants Khudag the air-conditioning kit is being switched on only 3 times a day for 30 minutes on each occasion, however it is not capable to provide satisfactory air circulation in the whole compound. As a consequence in some cells the concentration of bacteria in the air was 1.5-2.1 times higher than the permitted level.

The air pollution test of the detention center in Dornod Aimag made the specialists appalled. In 1 cubic m of air there were bacteria of concentration equaling to 3-10 times exceeding the hygienic standard. Actually all detention centers had displayed impermissibly higher concentration of bacteria per 1 m³ of air with no exception. This is a convincing proof of poor hygienic condition in detention centers what concerns only single criteria like air pollution. In Khovd Aimag detention center there is no air circulation at all. So exhaled vapor was condensing on the ceiling and falling down in drops in every cell.

In frames of the mentioned inspection light conditions had been checked too. Only 41 rooms out of 431 cells in total, i.e. 9.5% had access to day light. That means 90.5 % of all cells need 24 hour artificial light supply.

The cells are provided with light in two ways. One way was a standard neon light on the ceiling and the other type was corridor light coming in through the barred opening in the upper part of the iron door. There are only 80 cells with the light on the ceiling and 351 cells with the light beaming in from the corridor. The latter form of light supply is no good. According to the specialists the light in the cells was far from satisfactory. Thus the light in the cells is constantly dumb. There is much doubt that the light is constantly on. The experts who joined us during the visit were warning us that insufficient light will harm sight and may seriously affect health condition.

It seems vital to provide the hygienically necessary light in the cells.

3.1.2.3 Heating and water supply, humidity, bed and other necessities. Articles 13 and 24 of LCDS prescribe that “the conditions of detention premises must meet the sanitary and hygienic requirements. Every person must have a place to sleep and rest. The temperature in the cells must never be below 18°C.”

The above-mentioned conditions comprise of bed, bed linen, warm temperature, humidity etc. Only 14 sites of the prison network are connected to the central heating system, and 8 centers have independent heating boiler system. Most of the prisons are heated by ordinary brick stove in the corridor. During the inspection 9 centers had temperature much lower than the permissible minimum. These were Zavkhan Aimag – (+)5°C; Bayan-Ulgii – from (+)6.9°C to (+)11.2°C; Uvurkhangai – from (+)9°C to (+)14°C; Bulgan – from (+)3°C to (+)15°C; Khovd –from (+)14°C to (+)15°C; Dundgobi - (+)13°C to (+)15°C and Uvs aimag - (+)15°C.

Thus due to such low temperature there is no way to arrange air-conditioning by opening the corridor window in wintertime. Consequently the prisons are bitterly stinking, utterly humid and the air is polluted to unacceptable degree.

The law prescribes 55-65 percent humidity. Our measurements had revealed that in 50 percent of all prisons humidity was substantially higher the permitted level, in 23.8 percent humidity was lower and in 26.2 percent humidity level had met the prescribed figures. For instance in Arkhangai prison humidity was 1.5-2 times higher than the permitted norm, in Dornogobi – 79-90 percent; in Gobi-Altai – 75-90 percent; in Zavkhan – 85 percent; in Bulgan – 65-70 percent; in Dundgobi – 65-71 percent; in Uvs – 79 percent; in Khovd – 70 percent. In Zavkhan’s prison precipitation penetrates into the cells. In Khovd practically all cell ceilings were in stalactite drops.

Practically there is no technical water tab in the prison premises. Only the Tuv Aimag and Gats Khudag detention center of Ulaanbaatar have WC in the cell. In 6 Aimags WC facilities are in the yard. In 14 Aimags the prisons have common toilets. The inmates of the sites with toilets outside the cells may not go for necessities when they need to. For

instance, the prisoners of Bulgan were complaining that they had to use empty juice plastic bottles as temporary container. Going for necessities in the cell is an additional source of air pollution and of unhygienic condition.

Currently 15 detention centers have shower facilities. In Zavkhan Aimag the inmates do not have even a room to wash hands at least.

LCP provides the right of detainees to purchase items of basic needs and the detention centre authority may run shopping and charged medical services at the premises. Gants Khudag and in some Aimags detention centre authorities had made the first initiation attempt. Thus during the visit 11 locations had been offering such service. In Gants Khudag a personal account based cash service has been introduced on the basis of request of relatives and the authority initiation. Thus, 136 inmates had an account at the time of the inspection. In the little boutique they could purchase basic hygienic goods and foodstuff. This experience should be distributed to every other detention center as well. In the detention center Chart there is an item providing the rights of inmates to have food, hygienic items and to have access to books, electric appliances and barber service charged accordingly.

In some Aimag prisons library and circulated newspaper reading were regular already. Detention centers of Darkhan-Uul, Dundgobi, Zavkhan, Umnugobi, Uvurkhangai, Khovd, Khuvsgul, Sukhbaatar, Selenge and Tuv Aimags had no such facilities.

In accordance with the reports of the detention center staff the inmates were receiving bread and tea as breakfast and hot meals twice a day. There was no prisoner with evident symptoms of starvation. Food quality checking had revealed that quite often nutrition content was far from necessary. For instance, in Zavkhan Aimag meal nutrition had barely reached 801.1 kcal. Gants Khudag detention center use to order monthly food quality inspection made by the Hygiene and Health Institute of the Ministry of Health. As the registration journal reveals the food quality use to be satisfactory.

The detention center staff of some Aimags were complaining that they do not have a single paramedical staff at least what causes a lot of narrow moments in health and hygienic conditions of the site.

3.2 Status of Implementation of Principles for Non-Discrimination in Employment

3.2.1 The Constitution of Mongolia (1992) declares in article 14 that “no person shall be discriminated on the basis of ethnicity, language, race, sex, social origin and status, property, occupation and post, religion, opinion or education”.

The Labor Code of Mongolia (1999) prohibits in article 7.2 any “discrimination, restrictions or favors based on nationality, race, sex, social origin and status, wealth, religion, or ideology”.

Article 7.4 states that when recruiting an employee for work, an employer may not ask questions pertaining to the private life, ideology, marital status, political party membership, religious beliefs, or pregnancy of the employee unless such questions are related to the

work or duty to be performed. Article 7.5 provides that if article 7.4 has been violated by the employer then the employee shall not be obliged to respond to any those questions.

In the same legislation, article 141 provides that if there has been discrimination with respect to employment based on social origin, social status, nationality, race, sex, wealth, religion or political affiliation; or if limitations on or advantage for an employee have been created; or when hiring a citizen or in the subsequent labor relations the rights and freedom of an employee have been limited in a manner unrelated to the nature of his work, a judge shall impose a fine to an official from MNT 5,000 to MNT 25,000, and shall impose a fine on a business entity from MNT 50,000 to MNT 100,000.

The Law on Public Service (2002) provides in article 4.2 that unless otherwise indicated in the law, all citizens shall have equal opportunities to be employed by the public service.

The Law on Management and Financing of Budget Agencies (2002) states in article 5.1.3 that a public servant shall be selected in open competition on the basis of knowledge, education, occupation, experience and special skills and the work performance shall be evaluated in fair terms. Article 14.1 of the law prohibits budget agencies or officials to dismiss an employee from work without grounds or infringe the principle indicated in 5.1.3 of the present law (article 14.1.8). It also refers to article 5.1.3 when assigning, changing, dismissing an employee from work or granting additional benefits (article 17.1.2).

Article 10 of the Law on Administrative and Territorial Unit of Mongolia, and Administration (1992) defines procedures in respect to candidate for the governor of bag, khoroo, soum and districts as well as appointment of the candidate by the Governor of higher instance. Though the article provides for the refusal of appointing the candidate as the governor, however the rational for the refusal is not determined clearly.

3.2.2 Discrimination cases restricting the rights for equal opportunity provided in the Labor Code are evident from corrupt practices of some business entities, enterprises and their legal representatives while employing individuals on illegal grounds based on personal characteristics not completely related to the job requirement or while granting unreasonable advantages.

From the review of the “Job Announcement” sections of the “Daily News” and “Today” national daily periodicals, published during September-December 2003, it is clear that suggesting advantages to someone illegally or discriminating against others by their personal characteristics are widespread among employers when announcing job vacancies.

For instance, a customer relations position in a bank required “good looks and height above 168cm” whereas in another ad “person aged below 38” was sought as a branch director (*Daily News*, #238, 2003), and such ads are common in all print media.

3.2.3 The following form of discrimination at workplace could be observed from complaints received from individuals, inspections and selected surveys conducted previously.

Sacking of public servants on the basis of political affiliation becomes pervasive after general and local elections. This fact has been documented and reported in the 2002

NHRCM Status Report. Number of public servants released from offices after the elections of 1996 and 2000 was from 2 to 5 times higher when compared with the same figures in prior years of 1995 and 1999 (*Human Rights and Freedoms in Mongolia Status Report, UB, 2002, p.38*).

In his complaint to the Ministry of Labor and Social Welfare in February 2001 citizen “B”, Chief of Labor Regulation Service of Bayan-Ulgii Aimag, requested to provide with rational for sacking most of the authorities of Labor Regulation Services in the Aimag after general and local election, and asked how the new 15 appointees are better from their predecessors. The official response of the Ministry explained the reason for sacking 6 of them while ignoring with the explanation for the remaining chiefs of offices. The public tends to believe that blunt discrimination would stand behind such ignorance. Non-party members are also affected by the dismissal and change of professional staff after the elections, and this practice became more apparent after the 2000 elections. Thus 94.1 percent (3,422) of the 3,638 staff dismissed from jobs at public agencies after the 2000 general elections did not belong to any political party. At the same time, 68 percent (2,515) of 3,595 staff dismissed after the local elections did not have any political affiliation (*Report on Non-discrimination at Workplace, 2003*).

Thus sacking non-party servants from public posts provides with opportunities to fill in the management gap with appointees friendly to the government-of-the-day. On the other hand, it assists to avoid criticism from the opposition for sacking it’s party members.

Holders of high ranking, and especially political, posts tend to promote human resources from their own political party. The Minister for Labor and Welfare had received a letter signed by two MP’s on the 10th and 17th of January 2001 asking to hire citizen B at his ministry for the “services rendered during the elections and by considering his membership at the party’s local cell”.

Political affiliation in some cases also established grounds for precluding in holding a post. The Governor of Khovd Aimag refused to certify the overall victory of G and his next runner Ts in the elections for Governor of Chandmani Soum reasoning that they are from the opposition. A similar situation was put by the Khenti Aimag Governor when G, governor elect from the opposition party, had won the elections in Kherlen Soum.

3.2.4 Another common practice of discrimination in employment is establishing age limits. The study on non-discrimination at workplace revealed that most companies imposing age-limits on job vacancies would be reluctant to hire females above 40 years of age and male over 50.

The internal regulations of the Shive Ovoo coalmine defining in its recruitment procedures (provision 5.2) to hire truthful workers between the age of 18-35 (provision 5.4) and engineers below the age of 45 (provision 5.5) could be seen as discriminatory practices.

3.2.5 The violation of the principle for equal pay at identical jobs could also be seen as cases of discriminatory practices. Complaints received from joint venture companies

claiming unequal pay between national and international contractors for the same job performed proven to be true. The difference in pay between a Mongolian national and Russian contractor in a gold mining joint venture was USD 145 for a welder and USD 155 a for heavy mechanism driver (*Report on the Implementation of Labor Rights in Mongolia, 2003*).

COMMENTS & RECOMMENDATIONS

Based on the report the following comments are proposed and recommendations delivered:

One. It is already 10 years as the Law on Procedures for Demonstrations and Assembly had been adopted by the State Great Khural in 1994. In 1995 an amendment had been introduced increasing the penalty charge. Nothing else has been done ever since. Meantime things are changing, mentality is developing and the need of self-expression is higher today. In other words the existing legislation is well behind the new trends and needs. The legislation must follow the developments and keep pace with history. Thus there are many items and ideas, which should be revised and urgently reformulated or modified. For instance, the terming “assembly” is interpreted in rather broad sense. Thus it involves other forms of self-expression and protest as hunger and labor strike, seating protest etc. Therefore the whole system of issuing authorizations, and especially on the granting institution, should be revisited. Other forms of protesting and gatherings must be adequately reflected in this law as well.

Two. The recent trends of environmental pollution and damaging of ecological balance is commencing to severely affect the common rights of citizens.

- The priority task should be introducing of more strict rules of environmental protection and of punishment of those who violate the law. It is of prior importance to systematize professional expertise of inspection services, to revise the outdated technology and technical guidelines and standards, to abandon the harmful enterprises and industries and to oblige restoration and recreation duties;
- It is of high political and moral importance to involve the broad public into legalized environmental protection supervising activities. Natural resources license and permission issuing should be arranged in an open and competitive manner so that the commoners could check and express their attitude to each case;
- It is vital to systematically distribute information through mass media on the situation and trends of air pollution in Ulaanbaatar and other major cities;
- It is high time to properly sophisticate the existing legislation aiming at decreasing environmental pollution, to protect and restore ecological balance, to battle with natural disasters broadly involving economic, social and other effective factors and incentive mechanisms;
- Wintertime environmental routine should include professional overcoming heavy snow and icing implications by using adequate machinery, to protect paved roads from climatic deterioration, to prevent accidents due to slippery weather and icy roads and paths;
- New sophisticated manufacturing technology and environment friendly technique should replace gradually the harmful ones.

Three. It is strongly suggested to introduce to the legislation contemporary methods and criteria of evaluation of physical and mental harm and implications to victims and/or family members and relatives of deceased due to crime of perpetrators.

Four. The following measures should be taken concerning the activities of mining industry enterprises:

- to carry out another inspection visit at all entities and sites of this industry with a focus on implementing the provisions of the Labor Code and of relevant international conventions to which Mongolia is a party;
- The task is to enroll all workers of the mining industry into social insurance, to collect social insurance fees from seasonal workers at the site. Steps should be taken in order to systematize implementation of article 46.3 of the Labor Code in the mining industry. Therefore those who develop and carry out private mining activities shall be registered and involved in social insurance services;
- The Labor Code itself should be updated urgently. The following amendments should be introduced, for instance:
 - In praxis there is strong discrimination against workers by their age. Thus an idea that “if nothing else is provided by this law and other instruments of legislation, discrimination by age shall be forbidden” should be added to article 7. With an aim to prohibit discrimination based by nationality and in order to strengthen the provision of article 7.2 to add to article 49.2 after the words “male or female employee. . .” the following words “as well by nationality and tribal origin”. Therefore again in order to strengthen the provision of article 7 to add to article 128 the following “the disputes related with violation of article 7 of the Labor Code”;
 - Since in real life breach of duties in accordance with the collective agreements is in fact a prevailing general feature taking place due to freedom of the employer to conclude a contract or not. So a word “mandatory” should be added to item 1 of article 14 of the Labor Code;
 - Regular seminars and other means of promoting awareness concerning international convention duties and the provision of Labor Code should be provided urgently.

Five. The human rights of the Tsaatans to protect their own lifestyle and traditions and to be provided with adequate welfare should be thoroughly analyzed and the following measures are suggested in this direction:

- to involve this minority into the campaign of distributing cattle and the project on alleviation of poverty;
- to provide the right to carry out a secondary school training on their native language in Tsagaannuur soum of Khuvsgul aimag;
- To develop a special project guaranteeing access of Tsaatan youngsters to higher education institutions, including covering of all their expenses by the State;
- To add to article 4.2.3. of the Law on Protection of Cattle Genome and provision of veterinary service the reindeer.

Six. The following topics should be deliberated concerning further policy on promotion of living standards of vulnerable social groups:

- Since poverty and unemployment are directly related, to add to the Law on Social Welfare an idea of setting up of a special fund “ to employ poor people”;
- To add into the law on issuing allowances for unemployment from the Social Welfare Fund so that a certain percentage of the unemployment insurance fund shall be spent for development of the labor market and for promotion of skills of workers and of unemployed citizens.

Seven. Concerning the activities of law enforcement agencies:

- to carry out attestation of all detention facilities and to take adequate measures including closing the sites, which are beyond renovation or reconstruction;
- to prohibit transferring of detainees from the place of their residence.

APPENDIX

STRATEGIC PLAN OF THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA 2004-2006

INTRODUCTION

VISION

Ensuring the realistic implementation of everyone's human rights.

MISSION

To champion the sacred cause of promoting and protecting human rights in order to create the realistic implementation of the human rights of everyone in Mongolia.

GOALS

Goal One

The development of a human rights knowledge, culture and spirit so that people are aware of their rights and freedoms, and are prepared to stand up for them.

Goal Two

The development of a human rights culture in the legislature, executive and local government, the judiciary and law enforcement agencies, in which people's human rights are respected in their daily work along with obligations under the Constitution, the laws of Mongolia and international human rights treaties. Promotion of compliance with human rights principles by the private sector.

Goal Three

Effective cooperation with non-governmental organisations and civil society organisations and enhancement of their human rights capacity.

Goal Four

The consolidation of the Commission as Mongolia's expert human rights organisation that is able to fulfil its vision, mission and mandate and is so recognised by the official sector, civil society and the general public, as well as regionally.

GOAL ONE

The development of a human rights knowledge, culture and spirit so that people are aware of their rights and freedoms, and are prepared to stand up for them.

Objective 1.1

Raise public human rights knowledge and understanding to a new level.

Activity 1.1.1 Organise regular human rights education and promotion activities to improve the human rights knowledge and understanding of the public.

Activity 1.1.2 Organize public lectures on a priority human rights issue once every quarter.

Activity 1.1.3 Produce and distribute human rights promotional materials for the public on contemporary human rights issues.

Activity 1.1.4 Every year, develop and implement a one-month specific plan of action celebrating International Human Rights Day.

Activity 1.1.5 Prepare and broadcast one or more television or radio series on human rights issues each quarter.

Activity 1.1.6 Organise a public hearing of the Commission's annual "Human Rights Status Report".

Activity 1.1.7 Improve the content and quality of information on, and regularly update, the Commission's website.

Activity 1.1.8 Broadcast several series of human rights radio programmes at the local level.

Activity 1.1.9 Broadcast the "Undur Bosgo" radio drama promoting the rights of the child in four aimags.

Objective 1.2

Monitor and analyse the implementation of the right to elect and to be elected during the 2004 national and local parliamentary elections and the Presidential election of 2005.

Activity 1.2.1 Receive and investigate complaints regarding violations of the right to elect or to be elected during the election campaigns and the elections.

Activity 1.2.2 Conduct a study and assess any violations of the right to elect or to be elected.

Activity 1.2.3 Make official demands, recommendations and proposals and provide information to relevant organizations and officials based on the findings of the study and assessment.

Objective 1.3

Conduct regular study, research and monitoring on the rights of vulnerable groups and help improve their ability to stand up for their rights.

Activity 1.3.1 Undertake a study on the social protection of vulnerable groups.

Activity 1.3.2 Develop a project proposal and implement a small project to improve the implementation of the rights of the Tsaatan people.

Activity 1.3.3 Establish legal aid centres for citizens of three ger districts in the capital city.

Objective 1.4

Advocate for a system that ensures that human rights are taught at all level of formal education, and support improved human rights curricula and methodology.

Activity 1.4.1 Undertake training for lecturers of all law schools regarding human rights subjects and the content and teaching methodology of human rights courses.

Activity 1.4.2 Organise a conference to launch the Model Human Rights Curricula for law schools to relevant ministries and law schools.

Activity 1.4.3 Implement the model curricula by incorporating the curricula in the Sub-project on Enhancement of Legal Education.

Activity 1.4.4 Seek financial resources to incorporate human rights in the curricula of institutions training doctors and teachers, and develop human rights curricula in collaboration with relevant ministries, schools, universities and experts.

Activity 1.4.5 Seek financial resources to organize training for trainers of secondary school social studies teachers to improve their teaching skills and ability, in collaboration with relevant ministries, schools, universities and experts.

GOAL TWO

The development of a human rights culture in the legislature, executive and local government, the judiciary and law enforcement agencies, in which people's human rights are respected in their daily work along with obligations under the Constitution, the laws of

Mongolia and international human rights treaties. Promotion of compliance with human rights principles by the private sector.

Objective 2.1

Provide regular proposals, recommendations and information to law initiators, ministries and working groups to ensure issues relating to human rights in laws approved by the Parliament comply with fundamental human rights principles, constitutional concepts and internationally recognised norms, standards and procedures.

Activity 2.1.1 Make recommendations and proposals to ensure the provisions of the criminal law and criminal procedural law are in conformity with the international treaties to which Mongolia is a party and to improve the guarantee of the rights of victims and suspects.

Activity 2.1.2 Make recommendations and proposals, and undertake training to change practices, so that all aspects of personal searches undertaken by executive institutions or officials, including interference with individual integrity, searching or otherwise intruding on one's residence or arrest, is regulated through authorization by only a judicial body..

Objective 2.2

Monitor the implementation of the international treaties to which Mongolia is a party, make proposals to relevant organizations, and cooperate with international, regional organizations in this regard.

Activity 2.2.1 Cooperate with UNIFEM to implement the project "Facilitating CEDAW Implementation towards the Realisation of Women's Human Rights in Mongolia".

Activity 2.2.2 In cooperation with the Ministry of Foreign Affairs, submit a proposal to Parliament on acceding into international human rights treaties.

Objective 2.3

Influence and support regular reporting and improved quality of reports submitted by the Government to international treaty bodies.

Activity 2.3.1 Compile the reports the government has prepared under the international human rights treaties, and produce and disseminate a booklet on the reports.

Activity 2.3.2 Take other actions to improve the capacity of government officials to write reports to international human rights treaty bodies.

Activity 2.3.3 Produce 6 training packages for UN Conventions which require reporting.

Objective 2.4

Reduce the number of human rights violations and the incidence of torture during criminal procedures.

Activity 2.4.1 Undertake training on the Convention against Torture for case registrars and investigators, in collaboration with the Police Academy.

Activity 2.4.2 Conduct a public inquiry on the issue of torture.

Activity 2.4.3 Produce and distribute a pamphlet on torture for the public.

Activity 2.4.4 Publish and distribute book on Torture and Human Rights.

Activity 2.4.5 Collaborate with relevant organizations to amend and revise their regulations on evaluating the work performance in law enforcement agencies, to include more criteria to motivate a respect for human rights and full compliance with the law.

Activity 2.4.6 Undertake training on human rights and the Convention against Torture for judges who are authorised to issue approval for detention and arrest.

Activity 2.4.7 In collaboration with the General Prosecutors Office, institute a system of inspections of the prison central hospital and the pre-trial detention centre hospital.

Activity 2.4.8 Undertake regular human rights monitoring of pre-trial detention centers, detention centers and prisons.

Activity 2.4.9 Develop procedures to enable the Commission to conduct joint investigations with the General Prosecutors Office and the General Police Department in cases where a prisoner or detainee dies in any detoxification centre, pre-trial detention centre, detention centre or prison.

Activity 2.4.10 Examine how to create an effective monitoring mechanism to ensure the rights of suspects and detainees to choose a defense lawyer and to receive legal assistance at the case registration and investigation stages.

Objective 2.5

Organize activities to substantially improve the conditions of all places of detention that do not meet the standards in national laws and international human rights treaties.

Activity 2.5.1 Check and attest detention centres, pre-trial detention centres and prisons and undertake regular activities to improve and reform those places that do not meet human rights standards and legal requirements.

Activity 2.5.2 Analyse the procedures and facilities in pre-trial detention centres that enable the possibility of coercion and threats and the forced testimony of suspects and undertake activities to influence their compliance with international human rights standards.

Objective 2.6

Influence a change in trends in the use of the death penalty.

Activity 2.6.1 Undertake a study into the current situation, trends in the use of the death penalty and legislation relating to the death penalty in Mongolia.

Activity 2.6.2 Undertake training for judges on “Global Trends in the Use of Death Penalty” in collaboration with international organizations.

Activity 2.6.3 Organize round table discussions with district and soum judges on the issue of “Human Rights and the Death Penalty”. Ensure the participation of the media in this activity.

Activity 2.6.4 In addition to maintaining the present provision which prohibits subjecting women, and men over the age of 60, to the death penalty, study the possibility of decreasing the number offences that are subject to the death penalty and of eventually abolishing the death penalty.

Activity 2.6.5 Collaborate with the relevant organizations and make proposals on the possibility of deferring death penalty sentences.

Activity 2.6.6 In relation to the Decree of the President of Mongolia, 1994, make a proposal to the Office of the President to establish a practice where cases of torture or other series violations of human rights are investigated and reviewed by relevant authorities through making conclusions and observations based on the request of the person subject to the death penalty or on the initiative of Commissioners of the National Human Rights Commission.

Objective 2.7

Influence an improvement in human rights knowledge in the public sector, an increase in official compliance with human rights standards and greater accountability for officials.

Activity 2.7.1 In order to ensure the application of international treaties in the judicial system, support the official publication of international treaties in accordance with the procedures set out in the law.

Activity 2.7.2 Undertake training for officials of law enforcement agencies on trafficking.

Activity 2.7.3 Undertake training on the use of mediation and conciliation in resolving human rights complaints for complaints handling officers of administrative agencies and produce guideline on “Alternative Dispute Resolution”.

Activity 2.7.4 Undertake a study into freedom of conscience and religion.

Activity 2.7.5 Undertake a study into freedom of speech and opinion, and the right to demonstrate peacefully and to hold public meetings.

Activity 2.7.6 Where appropriate, submit claims to the courts based on the Commission’s inspections, inquiries and complaints.

Activity 2.7.7 Conduct a study on the human rights aspects of planning the collection of local taxes.

Activity 2.7.8 Organize activities aimed at eliminating the illegal mass dismissals of public servants after Parliamentary general elections and local Parliamentary elections that violate Article 16(10) of the Constitution of Mongolia which prohibits discrimination or repression of public servants for joining any associations.

Activity 2.7.9 Organize training and a seminar on “Corruption and Human Rights”.

Objective 2.8

Influence an improvement in the human rights knowledge of lawyers so that they regularly apply fundamental human rights principles in their daily work.

Activity 2.8.1 In collaboration with the National Legal Centre, provide training for lawyers including for:

- Judges
- Prosecutors
- Case registrars
- Investigators
- Court decision implementing officers

Activity 2.8.2 Undertake training for judges, prosecutors, investigators and advocates on the use of mediation and conciliation in resolving human rights violations.

Activity 2.8.3 Organize meetings with central legal institutions to discuss future cooperation.

Objective 2.9

Effective monitoring and evaluation of the National Human Rights Action Plan and implement obligations undertaken by it (activities to be developed in consultation with the National Coordinating Committee for the NHRAP).

Objective 2.10

Influence the private sector, especially joint ventures, to acknowledge and comply with their human rights obligations.

Activity 2.10.1 Undertake a study on the implementation of the principle of non-discrimination in employment.

Activity 2.10.2 Work with the Mongolian Employers Association and the Mongolian Trade Union Association to produce information for employers in the clothing and mining sectors on labour rights and the responsibilities of employers.

Activity 2.10.3 In conjunction with the relevant inspection agency and trade unions, continue to conduct research into, and monitor the conditions in, joint ventures.

GOAL THREE

Effective cooperation with non-governmental organisations and civil society organisations and the enhancement of their human rights capacity.

Objective 3.1

Undertake joint human rights training, promotion and research using modern methods.

Activity 3.1.1 Conduct joint research and implement projects with human rights NGOs on the rights of women, the rights of children, the death penalty, the right to a fair trial, the right to personal liberty and the right to freedom of conscience and religion.

Activity 3.1.2 Undertake training for human rights activists from NGOs on the investigation of human rights violations, the use of mediation and conciliation in resolving human rights complaints and how to organize public hearings on human rights topics.

Activity 3.1.3 Undertake step by step training to strengthen the capacity of human rights NGO's to effectively protect and promote human rights.

Activity 3.1.4 Establish a network of human rights trainers.

Activity 3.1.5 Organise human rights essay competitions for law students and for lecturers, scholars and researchers.

Activity 3.1.6 Every year, organise an action theatre competition for law schools on a particular human rights topic.

Activity 3.1.7 With the assistance of SIDA, provide capacity development assistance to the Mongolian Bar Association.

Activity 3.1.8 Collaborate with the Mongolian Bar Association in order to ensure the implementation of the right to legal aid and to be defended.

Activity 3.1.9 Plan campaigns on 2-3 priority human rights issues and organize related promotional activities.

Objective 3.2

Improve the effectiveness and capacity of the Commission's ex-officio board.

Activity 3.2.1 Renew the composition and regulation of the Commission's ex-officio board and regularise its activities.

Activity 3.2.2 Provide logistical support for the members of the ex-officio board.

Objective 3.3

Develop the capacity of the media to be sensitive to human rights issues and encourage the media to publish and broadcast human rights issues.

Activity 3.3.1 Develop a guideline for the media on publishing and broadcasting about human rights, and organize training and roundtable discussions with the media regarding the guideline

Activity 3.3.2 Organize training and campaigns to draw the attention of journalism students to human rights issues and provide them with human rights understanding and skills.

Activity 3.3.3 Regularly organize media campaigns on priority human rights issues through promoting the publication of human rights essay and articles.

Activity 3.3.4 Continue, and improve the reputation of, the media awards in recognition of contributions to the promotion and protection of human rights.

Goal Four

The consolidation of the Commission as Mongolia's expert human rights organisation that is able to fulfil its vision, mission and mandate and is so recognised by the official sector, civil society and the general public, as well as regionally.

Objective 4.1

Improve the powers of the Commission and increase the number and diversity of Commissioners.

Activity 4.1.1 Develop and submit to the Parliament a proposal to amend the Law on the NHRCM.

Activity 4.1.2 Submit proposals to relevant organizations to increase staff numbers and the budget of the Commission.

Activity 4.1.3 Study the possibility of the Commission having its own premises and make proposals about this to relevant authorities

Objective 4.2

Establish the practice of effective implementation of official demands and recommendations of the Commission based on the recommendations and proposals of the annual status report and human rights studies, research and inquiries.

Activity 4.2.1 Assess the implementation of demands and recommendations made by the Commission and make officials and individuals accountable for not implementing them.

Activity 4.2.2 Regularly promote the demands and recommendations of the Commission and their implementation through media.

Objective 4.3

Improve the accessibility of the Commission in the aimags (provinces).

Activity 4.3.1 Organise Human Rights Open Days in all aimags in cooperation with local Human Rights Committees and Councils.

Activity 4.3.2 Undertake training for the local authorised representatives of the Commission on holding human rights open days and on organizing human rights training, and develop and distribute a "Guideline on Human Rights Open Days".

Activity 4.3.3 Undertake training and workshops for local human rights committees and councils.

Activity 4.3.4 Produce a guideline for the local authorised representatives of the NHRCM.

Objective 4.4

Make the activities of the Commission more dynamic, and consolidate the Commission's position and capacity as the leading human rights body in Mongolia.

Activity 4.4.1 Furnish and regularly add resources to the Commission's Human Rights Information and Documentation Centre.

Activity 4.4.2 With the assistance of Sida or the UN Capacity Development Project, provide training for the Librarian/Documentalist.

Activity 4.4.3 Create a system of staff specialisation in specific human rights.

Activity 4.4.4 Further improve the Commission's complaints handling system, and develop a complaints database.

Activity 4.4.5 Renew and improve the Commission's equipment as necessary, including the internal electronic network and software programme.

Activity 4.4.6 Undertake human rights investigation training for staff of the NHRCM and staff of other relevant institutions in collaboration with the Asia-Pacific Forum of National Human Rights Institutions.

Activity 4.4.7 Produce and distribute a quarterly newsletter promoting the activities of the Commission.

Activity 4.4.8 Produce a booklet entitled "NHRCM – Three years".

Objective 4.5

The identification of alternative sources of funding for the Commission's activities and opportunities for technical cooperation.

Activity 4.5.1 Provide regular and prompt information to donor organizations about the activities undertaken by the Commission.

Activity 4.5.2 Arrange training for staff on developing project proposals and on implementing, and reporting on, such projects.

Activity 4.5.3 Effectively cooperate with international donors and national and international partners.

Activity 4.5.4 Explore the possibility of establishing a regional human rights training centre and establish contact with relevant funding organizations.

Activity 4.5.5 Organize an activity to inform donor agencies in Mongolia about the projects implemented by the Commission and this Strategic Plan.

Objective 4.6

The successful hosting of the 10th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions.

Activity 4.6.1 Submit proposal to Parliament and to the Government about the funding and participation of Mongolia in APF10.

Activity 4.6.2 Develop and implement a plan to organise the hosting of APF10.

Activity 4.6.3 Organise promotional and advocacy activities in connection with the APF Meeting.

Activity 4.6.4 Organise special activities for Central Asian participants with a view to establishing a regional human rights training centre in Mongolia.

Objective 4.7

Improve cooperation with international human rights organisations.

Activity 4.7.1 Develop and implement a plan of action in accordance with the memorandum of understanding entered into with UNICEF.

Activity 4.7.2 With the assistance of APF Secretariat, undertake the hosting of a UNV for one year.

Activity 4.7.3 Submit an annual activity and financial report to the International Coordinating Committee of National Human Rights Institutions.

Activity 4.7.4 Send representatives to the annual meetings of the APF.

Activity 4.7.6 Seek exchanges for mutual benefit with the member institutions of the APF and continue cooperation with the national institutions of Australia, New Zealand and the Republic of Korea.

Objective 4.8

Improve capacity and working terms and conditions for Commissioners and staff.

Activity 4.8.1 Arrange monthly in-house staff training on relevant human rights topics, in accordance with a quarterly staff-training plan.

Activity 4.8.2 Update annually the Staff Training Needs Assessment and Staff Training and Development Programme.

Activity 4.8.3 Send a staff member to the 25th, 26th and 27th International Human Rights Training Programme organised by the Canadian Human Rights Foundation.

Activity 4.8.4 Send a Commissioner and a staff member to the Human Rights Course organised in Finland.

Activity 4.8.5 Send appropriate representatives to other human rights training and workshops organised at the regional and international level and organise staff exchanges and work placements to improve staff capacity.

Activity 4.8.6 Revise staff job descriptions to reflect the tasks required of each staff member under the Strategic Plan and Annual Work plans.

Activity 4.8.7 Conduct a survey to determine the social needs of Commissioners and staff and establish a social development fund and social program to assist them.

Activity 4.8.8 Organise social leisure activities for the Commissioners and staff in their free time.

Activity 4.8.9 Every year, arrange a medical examination for Commissioners and staff of the Commission.