

## TABLE OF CONTENT

<b>FOREWORD .....</b>	<b>2</b>
<b>CHAPTER ONE: STATUS OF THE RIGHT TO VOTE AND TO BE ELECTED .....</b>	<b>3</b>
<b>1. Universality .....</b>	<b>3</b>
<b>2. Principle of Equality .....</b>	<b>10</b>
<b>3. Free Elections .....</b>	<b>14</b>
<b>4. Secrecy of Ballots.....</b>	<b>21</b>
<b>CHAPTER TWO: STATUS OF THE RIGHT FOR FOOD .....</b>	<b>23</b>
<b>CHAPTER THREE: STATUS OF THE RIGHT TO LIVE IN SAFE ENVIRONMENT .....</b>	<b>31</b>
<b>COMMENTS AND RECOMMENDATIONS.....</b>	<b>36</b>
<b>APPENDIX .....</b>	<b>38</b>
<b>1. NHRCM STRATEGIC PLAN 2004-2006.....</b>	<b>38</b>
<b>2. NHRCM 2004 ANNUAL ACTIVITY REPORT .....</b>	<b>51</b>
<b>3. REGULATION ON THE NATIONAL HUMAN RIGHTS COMMISSION'S EX-OFFICIO BOARD .....</b>	<b>61</b>
<b>4. GUIDELINES OF "HUMAN RIGHTS OPEN DAYS" TO BE ORGANISED IN AIMAGS, IN THE CAPITAL CITY, SOUMS AND DISTRICT .....</b>	<b>64</b>
<b>5. TERMS OF REFERENCE FOR THE NATIONAL HUMAN RIGHTS COMMISSION'S AUTHORIZED REPRESENTATIVES IN AIMAGS.....</b>	<b>68</b>
<b>6. TERMS OF REFERENCE PUBLIC INQUIRY ON "TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT" ..</b>	<b>70</b>
<b>7. No. 970 DECISION OF BAYANZURKH DISTRICT COURT .....</b>	<b>72</b>

## FOREWORD

The National Human Rights Commission of Mongolia (NHRCM) has produced the fourth annual report on the status of human rights and freedoms in Mongolia, according to its founding legislation.

While preparing the present report the NHRCM, along with systemizing information and documentation gathered during the course of the year, has also attempted to review contemporary human rights issues.

In terms of the year 2004 the most important events attracting attention from a human rights perspective were general elections to the State Great Khural and local elections. Thus the first part of the report reflects on the status of civil rights to vote and be elected.

The second part of the report reviews the implementation status of the right for food.

In the third part of the report an attempt is made to briefly review some aspects related to the right to safe environment.

Attached to this report are several documents related to the operations of the NHRCM.

**NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA**

# CHAPTER ONE: STATUS OF THE RIGHT TO VOTE AND TO BE ELECTED

The general and local elections of 2004 were in the center of attention of human rights organizations and practitioners while providing sample opportunities to examine the implementation of the right to vote and to be elected.

The NHRCM studied the implementation of these rights which are classic manifestation of political rights and freedoms.

At present, election processes in Mongolia are regulated by Law on Elections of the State Great Khural (1992), the Law on the Presidential Elections (1992), and the Law on the Elections of Khurals of Citizens' Representatives of Aimags, Capital City, Soums and Districts (1996). Since 1992, Mongolia has held four general elections, three Presidential elections, and three local elections. For the enhanced implementation of the right to vote and to be elected, it is essential to improve and update election laws and regulations. International standards relating to democratic elections emphasize the following principles:

- Universality
- Equality
- Free elections
- Secrecy of ballots
- Periodicity of elections

This report discusses reflection of the above principles in national legislation and their observance in practice at all stages of administering elections.

The Constitution of Mongolia and other relevant laws provide for four-year periodicity of elections which is followed duly.

## **1. Universality**

Universality of suffrage is in the heart of the right to vote and to be elected. The doctrine is to ensure that all eligible citizens are guaranteed the right to universal and equal suffrage without any discrimination.

The Law on the State Great Khural Elections stipulates “Members of the State Great Hural shall be elected by citizens eligible to vote on the basis of ... universal suffrage” (Article 1), the Presidential Election Law provides “At the primary stage of the elections, Mongolian citizens eligible to vote shall participate in electing the President on the basis of universal ... suffrage” (Article 3), and the Law on Elections of Aimag, Capital City, Soum and Districts sets out “... citizens have the right to participate ... on the basis of universal ... suffrage...”(Article 3).

Despite universality of suffrage embodied in national legislation, its real implementation depends much on its observance in the administration of elections at all stages including

setting a date for election day, establishment of election sub-committees responsible for specific electoral precincts, announcement of polling date, time, and station, producing voter register, advanced polling and mobile voting.

**1.1.** Establishment of election committees and sub-committees (hereinafter “committees”) in accordance with legal requirements is a fundamental condition to hold fair elections, to ensure universal suffrage and the right to vote and to be elected in the long run.

In many occasions, the right to vote and to be elected is negatively affected by such mischief as discrepancy of political parties and non-party representation in election committees, resistance against inclusion of non-party representation in election committees and delayed establishment of election committees and sub-committees.

A heavily criticized practice is that political parties play ruse by slotting in their members to election committees as non-party representatives. Despite allegations and complaints from political parties and candidates, the law is still weak to protect from such misconduct. The laws only prohibit candidates to work in capacity of election committee chair, secretary, and member. A better legal regulation banning domination of a specific political party in election committees is needed to eliminate discrepancies in political party representation.

Although it is prohibited for election committee chair, secretary, and members at all levels to promote any political party, coalition, or candidates, there have been a number of cases in the countryside where spouses of candidates worked in election committees relevant to the said candidate. Lack of legal regulation creates room for dominance of a single political party in election committees, prearranged distribution of election committee representation among political parties, and exclusion of genuine non-party representation which were commonly observed during local elections of 2004. Agreed and prearranged distribution of election committee representation among larger political parties may be seen as discriminatory for non-party individuals and smaller political parties.

*During the general elections two representatives of MPRP and Motherland-Democracy Coalition who worked in the election committee in our aimag shared ballot papers equally and marked their own candidates on the ballot papers based on mutual agreement while administering mobile voting (NHRCM authorised representative’s statement, Uvs Aimag).*

Elections, both general and local, are not only a contest among political parties but, most importantly, demonstration of the will of citizens eligible to vote. Therefore, it is a pressing need now to improve the legal environment for the establishment of election committees to ensure realisation of rights and freedoms on equitable basis.

**1.2.** Another observation in the study is that election committees are not established within the legitimate time limits.

*Election subcommittees were established 9-13 days later than the period specified in the law (Monitoring report, Dundgovi Aimag).*

Delayed establishment of election committees brings about such negative consequences as failure to train committee members and to expose them to the work that they ought to carry out that eventually lead to violations.

**1.3.** Another impediment in the process of establishment of election committees is caused by lack of qualified human resources, weak legal and economic guarantees for committee members.

This phenomenon is rooted in weak recruitment mechanism that is discouraging for ordinary citizens to be involved in the work of election committees, and that usually engages a limited group of people who are either party-affiliated or public servants.

In particular, election committees severely lack educated and qualified recruits during local elections.

*Respondents noted that complications and red tape arise because election committee members on the site are not able to decide on anything and they remit to their higher authorities for decisions. Also human rights are violated due to the lack of knowledge of election committee members of their duties.*

Former election committee members consider that their remuneration is insignificant, which is a substitute payment equal to their average monthly salary at the place of employment, and certain portion of that amount if retired.

It is common for election committee members to have a large workload and work overtime even during weekends for which they are not paid. Worse is the situation if an unemployed is recruited at an election committee as they are not paid at all.

With such meager remuneration especially in the countryside, election committee members cannot be resistant to gifts and be influenced by candidates and political parties.

**1.4.** Selection of polling premises and adequate announcement of polling location to the public is important for attainment of universal suffrage. Polling premises should be most accessible to everyone and of adequate size. In more urban areas, polling premises seem not to correspond to the number of voters in terms of population. During the last elections, voters were distressed about long queues and some of them were even discouraged to vote due to such circumstances. Therefore, it is essential to consider the number of voters when selecting polling premises. In other words, specific standards of polling premises need to be established which would specify distance between polling booths and locations for election committee members and observers and also create favorable conditions for people with disabilities. Announcement of polling location to the public is inadequate. According to the law, election committees should start announcing polling location two weeks before the election day. However, this is not duly observed in practice.

Accessibility and adequacy of announcement of polling locations, polling date, time and rule of procedure is in the forefront of election committee responsibilities.

The following table shows voter evaluation about announcement of polling date, time, locations and rules of procedure.

	General elections		Local elections	
Adequate	654	65.4	510	51.0
Mere	164	16.4	183	18.3
Not sufficient	69	6.9	83	8.3
Do not know	113	11.9	224	2.4
Total	1000	100.0	1000	100.0

*“Study of the right to vote and to be elected,*

*Social Research Institute, 2004*

It causes a concern that merely 50-60% of respondents replied that they had adequate information about polling date, time and place. It was common for voters to be underinformed about polling date, time, and location although it was not same for voters in all the selected monitoring electoral districts.

*Voters have very poor knowledge of where to go for casting votes and how to do it. Many people were hypothesizing that polling stations were probably at the same site as during the last elections. It may have been also because of the lack of public events due to no electricity (Monitoring Report, Zavkhan Aimag).*

*Although there was a lot of media engagement during the elections, most of them were to promote candidates rather than educate voters on election laws and procedures (Monitoring report, Khuvsgul Aimag).*

In suburban and rural electoral districts, election committees during both the general and local elections failed to inform voters adequately. Every tenth voter in Bayanzurkh, Songinokhairkhan, and Khan-Uul districts had no clear information about polling date, time, locations and rules of procedures.

**1.5.** Producing voter register is important to attain universal suffrage. The law specifies authorities responsible for production of voter register, and those responsible for monitoring this process and relevant methods. According to the law, bagh governors are responsible for producing voter register and submitting it to election committees. Yet, we cannot rest assured that bagh governors are free from political interests since they are political authorities. Therefore, it is important to ensure that independent body monitors the process of producing voter register. Often voter register is produced behind supposed time. This is an impediment for voters to get exposed to voter register to make sure that it is accurate. The following is provisions of the laws that regulate the timeframe for the production and publicizing of voter register.

- Law on the State Great Khural Elections of Mongolia: Election committees compile voter registers according to the forms approved by the General Election Commission in two copies (not less than 45 days before polling day). These election committees shall display the copy signed by the chairman of the committee for the information of the public not less than 15 days before polling day, or in case of hospitals, sanctuaries and sanatoriums 7 days before polling day.
- Law on the Presidential Elections of Mongolia: Election committees compiles in duplicate voter registers, not less than 30 days before the polling day, in the form approved by the General Election Commission and make public the list signed by the chairman of the election committee not less than 15 days, or in case of hospitals, sanctuaries and sanatoria 7 days before the polling day.
- The Law on Elections of Khurals of Citizens’ Representatives of Aimags, Capital city, Soums and Districts: Election committees compile in duplicate voter registers in the form approved by the General Election Commission and make public the list signed by the chairman of the election committee.

It is questionable for what reasons voter register is undisclosed until the last two weeks of general and Presidential elections although they must be complete 45-30 days until the elections. As mentioned earlier, overdue production of voter register is a common violation.

In fact, production of voter register was in the center of election disputes during the general and local elections of 2004, especially among candidates. The study shows that there are a number of reasons for recurring violations of this sort due to failures at all ends including local governors, election committee members, candidates and voters.

Common violations during both the general and local elections were rooted in inattentiveness and negligence of local governors to their duties. This includes inaccurate and overdue voter register, misspelled and/or wrong names and documents, failure to timely correct changes of residence which leads to exclusion of entitled voters from particular voter register and inclusion of non-entitled.

*The governors of baghs had not produced their voter registers according to the law. Complete or incomplete voter registers became ready only two days before the election day (Monitoring report, Tuv Aimag).*

This kind of situations was common in all the aimags and Ulaanbaatar during the local elections. Moreover, the study shows that up to 30% of voters faced some types of difficulties in relation to voter register such as misspelled and/or missing names, ID and personal registration numbers that sometimes were made to occur with intent rather than accidentally.

*Name of one student out of 24 on the voter register was missing and personal registration number of all of them did not correspond to the number of voter ID (Document analysis, Khovd Aimag).*

7% of the complaints received by the General Election Commission concerning the general elections were related to voter registers. This figure rose to 25.4% during the local elections (Analysis of complaints and requests received by the General Election Committee).

Under the study, voter registers were cross-checked against residence of voters in all aimags. The result was disappointing as inaccurate voter register was the case in almost every aimag: common violations were outdated voter registers which in some occasions included deceased and migrated residents while at the same time missing permanent residents; voter register did not correspond with actual residence addresses, and family members residing under same address were registered with different addresses to name a few.

*...As a result of cross-checking of the voter register, we found out that out of thirty eight voters there were three who had no national ID despite requirements and five voters who did not belong to that particular precinct any longer including deceased and migrated (Govi-Altai Aimag researcher's note).*

*... Among 100 selected voters from the voter register there were 34 who did not qualify as voters including 8 moved away, 16 unidentified, 3 residing in remote rural neighborhood, and 1 with no national ID (Govisumber Aimag researcher's note).*

*...22 out of 100 selected voters from the voter register in precinct 178, constituency 7, did not qualify as voters (Bayankhongor Aimag researcher's note).*

*...Voter register of precinct 48 missed 22 permanent residents yet included a person who was deceased a year ago (Dundgovi Aimag researcher's note).*

Researchers also noted that it is common for voters to fail to register with their local authorities timely of change of their residence and sometimes citizens reside with no registration at all.

**1.6.** By legislation the Parliament proclaims dates for all types of elections. What is important here is selection of a date that is reasonable to ensure universal suffrage. Presidential and general elections since 1992 have undergone massive demographic changes and movement. Between 1959 and 1990's elections used to be held within the first ten days of June when there was no military draft or withdrawal, and students were still in the town. Due to the current timing in late June, around 20,000-30,000 voters are unable to cast their ballots. As to the local elections, timing is none the better because October is a special time for the country to do harvesting, winter preparation and moving the livestock to distant pastures.

**1.7.** An essential part of universal suffrage is related to mobile voting procedures designed for those voters who are unable to come to the place of polling in person due to health conditions and other valid reasons. In practice, this group of voters includes patients in bed, criminal convicts, suspects in detention, and persons in custody for administrative penalty. Under the current election legislation only some of these persons qualify for mobile voting. There is a need to advance the legislation in terms of identification of voters qualified for mobile voting, production of their register, registration time limits, secrecy of their ballots, and liabilities for election committee members if they breach laws and procedures of mobile voting.

Although the General Election Commission adopts "Rules relating to Mobile Voting" before every election, there is no clear legal definition of voter qualifications for this procedure. According to the above-mentioned rules, voters are required to state in writing or verbally before election day that they are not able to come to cast their ballots in person on election day. Yet, the time limits for producing special voter register for mobile voting is not specified in the law which causes disputes, and breaches the right to vote. There is no official interpretation of "valid reasons" to qualify for mobile voting.

It is also vital to develop a culture-specific legal regulation with respect to the right of voters to cast ballots who are in most remote and inaccessible rural areas and who have moved away with the livestock to distant pastures.

The laws and regulations need to ensure that mobile voting procedure is inclusive of voters on special voter register. Due to the lack of liability and accountability in the law, it is common for election committee members to be negligent to ensure qualified voters are fully covered by mobile voting procedure.

The election laws stipulate that voters unable to mark on ballots may receive assistance of authorised persons. The resolution No.30 of the Supreme Court of Mongolia (1992) states "[...] voter unable to mark on ballots is a voter qualified to vote [yet] possessing physical shortcomings, health conditions or the lack of education that causes inability for him/her to mark on ballot papers". However, a number of violations occur because of the lack of legal regulation concerning registration time limits of voters who would need assistance of authorised persons, and conditions when there is no authorised person accompanying voters unable to mark on ballots papers. This situation also relates to the secrecy of ballots.

*Requests for mobile voting of 28 herdsmen away with their livestock on distant pastures in Tongorog, Bayan-Ovoo sum, Bayankhongor aimag, were not accepted by relevant local election committee (Monitoring report, Bayankhongor Aimag).*



*Out of 102 in-patients in Sukhbaatar District Health Cooperative, 5 did not belong to the constituency, 23 were temporarily out, and 42 of the remaining 74 in-patients casted their ballots whereas 32 were totally missed out (Observation note).*

*Only 10 out of 170 in-patients in the Center for Cancer Research could cast their ballots with mobile voting (Observation note).*

It was noted in the observation by the Commissioners and the Commission's staff in some election precincts that some voters unable to mark on ballots came along without authorised persons to assist them, and election committee members nominated by-passers to assist to the voters, in some cases election committee members assisted these voters under the supervision of observers.

It is much needed for the Government to introduce legislative and policy changes to ensure the right to vote of people with disabilities. It is important to explore possibilities to make available ballot papers in Braille alphabet, special polling booths that would meet needs of these people. This is equally essential for ensuring universal suffrage.

**1.8.** The Presidential Election Law and the Law on State Great Khural of Mongolia stipulate that citizens of Mongolia residing in the country on the day of elections, who have reached the age of 18, have the right to vote. According to the Law on Elections of Khurals of Citizens' Representatives of Aimags, Capital city, Sums and Districts, citizens of Mongolia residing in the territory of capital city, relevant aimag, sum and districts on the day of elections, who have reached the age of 18 have the right to vote.

However, persons who have been proved insane by medical expertise and/or court decisions (as interpreted under the Articles 144-146 of the Civil Procedure Code and Resolution No. 30 of the Supreme Court), and those who are incarcerated (this includes only those who have been incarcerated by valid court decision, escaping from the place of imprisonment, those who are out of the place of imprisonment on temporary leave, and those whose imprisonment sentence is in suspension according to the Resolution No. 30 of the Supreme Court).

**1.8.1.** Mongolian citizens abroad are not enabled to vote.

**1.8.2.** Despite the laws that exclusively restrict the right to vote of "incarcerated persons", no thought is given to the right to vote of suspects in custody whose guilt has not been proved yet.

Approximately 800 persons in the Central Pre-trial Detention Center could not vote during both the general and local elections (NHRCM monitoring note).

**1.8.3.** Breach of the right to vote of students and internal migrants has become an accepted phenomenon. Although disputes related to votes by students and internal migrants were common, this sort of complaints was especially abundant in Dornod, Bayan-Ulgii, Orkhon, Dornogovi and Tuv aimags.

According to the Law on Elections of Aimag, Capital City, Soum and Districts, citizens of Mongolia residing in the territory of capital city, relevant aimag, sum and districts on the day of elections have the right to vote. Yet, students studying in universities, colleges, vocational training centers are not able to exercise their right to vote during local elections due to the provision of the "Rules for Registration and Declaration of Citizens' Resettlement in the

Territory of Mongolia”, adopted by the Government Resolution No.214, which states “Students of all schools and training centers, citizens resettled for medical purposes shall be considered as temporary residents with no respect to the length of their stay” (Article 1.3.). This deprives students of their right to vote who make up around 4% of voters (Statistical News, 2002) thus leading to failure to ensure universal suffrage.

**1.9.** Legal regulation of advanced polling and voter resettlement certainly relates to universal suffrage. The Law on Elections of the State Great Khural (Article 18) and the Presidential Election Law (Article 19) provide for possibilities for voters to resettle to another election precinct before the day of elections. According to the Law on Elections of Aimag, Capital City, Sum and Districts (Article 15), voters may move from one election precinct to another within the aimag, capital city, sum and district of their residence before ballot papers are received by election committees. This is related to specifics of local elections that are to elect citizens’ representatives of that particular locality where citizens have permanent residence. The provision in the Law on Elections of the State Great Khural that makes it possible for voters to resettle any time until the day of elections is a gateway for such election frauds as massive intentional transfer of voters to win more votes. Moreover, this phenomenon creates mechanical rise of voters and negatively impacts on equal weight of votes which is an important component of equality principle, and equal opportunity of candidates to contest. Therefore, it is needed to revise the law as to allow voters to resettle only until ballot papers are received by election committees.

According to the Law on Elections of the State Great Khural (Article 35), the Presidential Election Law (Article 33) and the Law on Elections of Aimag, Capital City, Sum and Districts (Article 29), advanced polling is allowed within the period of not less than five days or between the receipt of ballot papers by election committees and the day of elections. This is not a reasonable timelimit which needs further consideration for extension in the election legislation. Allowing longer period for advanced polling would lead to better realisation of universal suffrage.

**1.10.** One specific phenomenon of 2004 elections was disputes related to registration, change of residence that should be recorded on national ID. Although it is the responsibility of citizens to have the address of their residence recorded on their national ID duly, much is to do with bureaucracy and inefficiency of government institutions.

**1.11.** There were numerous complaints during the last elections about violation of the right to vote due to failure of the relevant government institution to issue and change national IDs timely.

## **2. Principle of Equality**

There are two principal elements of democratic elections - first, “one person one vote” or equal weight of each vote, secondly, equal representation of voters and equal opportunity of candidates in the election process.

The equality principle is important for ensuring non-discrimination in the administration of an election.

**2.1.** The Universal Declaration of Human Rights declares “...*The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine*

*elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures” (Article 21).*

The International Covenant on Civil and Political Rights ensures the right to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage (Article 25).

However, none of the national legislation on elections does not ensure the principle of equal suffrage including the Constitution of Mongolia, the Law on Elections of the State Great Khural, the Presidential Election Law and the Law on Elections of Aimag, Capital City, Soum and Districts.

**2.2.** The principle of equality should be observed throughout the election administration. Equality in election process is contingent on boundaries of electoral districts, equal participation of voters, and number of supporter signatures needed to contest as an independent candidate and equal opportunity for candidates.

Electoral districts are established during general and local elections whereas such are not required for Presidential elections that are administered under a single mandate for the whole country.

With relation to equal-populous electoral districts, the Law on Elections of the State Great Khural stipulates that the *“election shall be carried out based on single mandate districts. Election districts shall be set up 70 days prior to the election day depending on the number of the population in Aimags and capital city. Should the number of population in an Aimag be less than the state average for setting up an election district to the State Great Khural, the district may be set up through joining up soums of the adjoining Aimag”* (Article 8). The Law on Elections of Aimag, Capital City, Soum and Districts provide *“election shall be carried out based on single mandate districts. Election districts shall be set up no less than 18 days prior to the election day depending on the number of the population”* (Article 5).

2004 elections applied boundaries of electoral districts that were first adopted back in 12<sup>th</sup> April 1996 by Parliament Resolution No. 17 which was modestly amended by Parliament Resolution No. 33 of 20<sup>th</sup> April 2000. However, after eight years of massive internal migration electoral constituencies are not the same.

**Number of registered voters of some electoral districts during 2004 general elections**

City/Aimag	Electoral district No.	Number of registered voters
Dundgovi	20	12.196
Khentii	51	11.105
Orkhon	55	25.301
Ulaanbaatar	58	30.431
	59	33.691
	67	34.199

*(Statistics from GEC)*

The table above shows that the number of voters in electoral district No.67, Ulaanbaatar, (34.199) is three times larger than that of electoral district No.51, Khentii aimag. This is opposed to the principle of equality.

Such inequality is created by negligence of demographic changes and unsighted conformity with the previous geographic districts. Therefore, it is essential to develop appropriate legal regulation that ensures interrelation with local authorities and civil registration agencies.

**2.3.** In the core of the equality principle is rule of “one person one vote”. Lately, voting frauds such as double or multiple voting has become regular. Prevention measures including voter IDs and finger imprint are not of much assistance.

During the general elections of 2004, election committees received many complaints about voting by individuals who had not been on voter register before.

**2.4.** Candidates should have equal opportunity throughout the election process including nomination, registration, and election campaign.

**2.4.1.** The legislation provides for equal opportunity of candidates during election campaign. For instance, the Presidential Election Law (Article 28.3), the Law on Elections of State Great Khural (Article 21.3) and the Law on Elections of Aimag, Capital City, Soum and Districts (Article 23.2) ensure the right of a candidate to have equal opportunity with relation to broadcasting.

However, election campaign is not free of inequality; especially it is widespread for ruling political forces to take advantage of its power to use media for publicity. During 2004 general elections, MPRP was criticised severely by the media and the public for domineering election campaigns.

**2.4.2.** It was also common for the ruling political force to misuse public resources and public servants for election campaign during the recent elections. This leads to inequality among candidates. An observation made during the recent election was that public servants were mobilised for election campaigns, and success of a particular candidate became a mission for a whole organization.

*... Almost all MPRP candidates were leaders of government organizations and private companies. That is why they abused their power to the maximum. Starting from 1 October the offices of the Governor's Administration of Zuunmod soum and Tuv Aimag were abandoned as all the staff members with exception to receptionists and cleaners went out to 27 soums for the election campaign (Monitoring report, Tuv Aimag)*

The public considers that public servants are mobilized for election campaigns both during the general and local elections (47.7% and 41.7% respectively). There are various forms of public servant mobilization during election campaigns.

Some public servants have to pretend as if particular candidates have credit for the services they render while in fact they are expediting routine government services (building roads from public funds, paying salaries and pension allowances, distributing charity goods etc.)

A lately emerging election fraud is to have votes of all public servants who work under the leadership of a candidate by bringing them together to relevant constituencies under the pretext of having their assistance during elections. Complaints and communications to the General Election Committee confirm that this sort of acts happened during the previous general elections.

Some common forms of public servant mobilization during election campaigns include:

- Widespread mobilisation of public servants for election campaigns of political parties, coalitions and candidates;
- Employing public servants as election campaign headquarter staff;
- Statements by public servants to the effect of supporting candidates;
- Call by public servants for voting for particular candidates;
- Escorting candidates in various public events and responding on their behalf.

**2.5.** It was widespread for candidates to illegally use public resources for their campaigns. Surveys, polls and criticism demonstrate incumbent officials abuse public resources such as vehicle, communication facilities, and premise for their election campaigns; they went on election campaigns while being paid daily allowances from state budget.

**Abuse of government resources for election campaigns**

	General elections		Local elections	
Quite often	248	24.8%	177	17.7%
Often	240	24%	231	23.1%
Sometimes	182	18.2%	203	20.3%
Never	323	32.3%	371	37.1%
No response	7	0.7%	18	1.8%

“Study of the right to vote and to be elected”  
Social Research Institute, 2004

Approximately half of the respondents (48.8%) consider that candidates illegally use public resources for their campaigns during general elections. This is not so different during local elections (40.8%).

Among public resources, the most frequently misused items for election campaigns are state premises, vehicles, media, public servants, wages and daily allowances for the purposes of countryside missions paid from the state budget.

“Campaign Finance Monitoring for 2004 Parliamentary Election”, a study jointly carried out by the Open Society Forum, Voters Education Center and Globe International, found out and substantiated numerous facts about misuse by political parties and candidates of public resources during the election campaigns.

The results of monitoring of 556 events showed that 1,788 public servants were mobilised for 7,798 hours in 556 election campaign events. 1,766 of these 1,788 public servants were mobilised in MPRP election campaign whereas 22 of them in “Motherland-Democracy” Coalition election campaign.

It has become widespread for public servants from the offices of Aimag Governor’s to leave for missions in soums and more rural areas. Every officer from the Office of Khentii Aimag Governor and other state agencies were sent out to work in soums.

Composition of the MPRP election headquarters in Umnugovi Aimag was set up in the following way:

- Security and Legal Team chaired by the Director of the Office of the Aimag Governor
- Finance and Contributions Team chaired by Chief of Finance and State Fund Division of the Office of the Aimag Governor

- Advocacy Team chaired by Governor of Dalanzadgad Soum
- Supporters Team consisted of 110 advocacy workers, 37 of them were public servants such as teachers, physicians and nurses (Facts from research reports).

The “Campaign Finance Monitoring for 2004 Parliamentary Election” study shows that 1,033 public vehicles were misused (for 51,366 km distance) in 241 events out of 556 events monitored under the study. 1,017 vehicles out of 1,033 were used for MPRP candidates’ election campaigns. Observation in only one soum of Khuvsgul Aimag shows that public vehicles including that of the police and the Aimag Governor were misused in 25 events.

### **3. Free Elections**

Principles of free elections incorporate:

- Conditions for voters to choose, without coercion, threat of coercion or any other unlawful influence, whether to participate or not in elections in the forms allowed by law and by lawful methods, without fear of punishment, influence or compulsion, specifically, depending on voting and election results;
- Conditions for candidates to contest in elections free from pressure and intimidation.

**3.1.** National legislation on elections guarantees principles of free elections. The Law on State Great Khural Elections stipulates “members of the State Great Khural shall be elected by citizens eligible to vote on the basis of ... free suffrage. ... any obstacles to the free expression of voter choice shall be prohibited” (Article 1), the Presidential Election Law provides “... no voter shall be barred to freely make his/her choice” (Article 3), and the Law on Elections of Aimag, Capital City, Soum and Districts sets out “citizens have the right to freely choose...”(Article 3).

Fair and non-discriminatory conditions for candidates free from undue pressure and intimidation is a basis for voters to make a genuine choice. The ultimate value of free elections is genuine and full expression of the people’s political will. Without adequate and accurate information it is impossible for the people to express their genuine will.

The election legislation guarantees the rights of candidates and political parties to freedom of expression including their manifestos, access to information. The legislation prohibits libel and defamation of candidates, violation of their privacy and confidentiality of correspondence.

**3.2.** The essence of elections is demonstrated by voter decision based on their genuine belief which is free from undue third party intervention. Research and observations show that the following is some of the common violations of the right to vote during polling in 2004 general and local elections:

- Missing from voter registers
- Rejection to give ballot papers on false grounds that voter has already franchised
- Attempts to influence by election committee members
- Attempts to influence by political party observers
- Void votes due to illegal ballot papers without stamp and signature of election committee chair and secretary.

The survey by the Social Research Institute among 1,000 respondents shows that 118 respondents (11.8%) were subject to attempts to influence in franchise, names of 65 respondents (6.5%) were missing from voter register, and 11 respondents (1.1%) came to know to cast illegal ballot papers without stamp and signature of election committee chair and secretary.

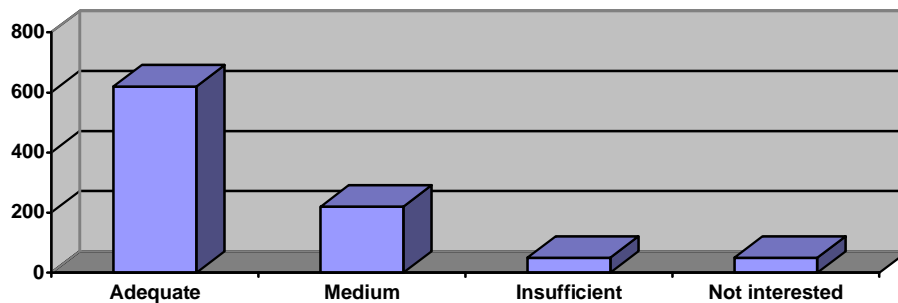
**3.3.** Election campaigns and relevant information is essential for voters to make a free choice. Unfortunately, in many occasions voters are lured with empty promises, goods and cash; local governors and election committee members are involved in illegal acts such as organised mass transfer of voters to another electoral district.

Researchers note that organised mass transfers of voters to other electoral districts were one of the recurring phenomena during the general elections of 2004, and local elections were not much different.

**3.4.** Although there are various factors that influence on the conscious decision and choice of voters, election campaigns have special effect on that choice. Election campaigns promote both candidates and political parties, and could be categorized in that respective manner.

**3.4.1.** The most crucial information required for voters is about their candidate.

**Access to candidate’s information during general elections**

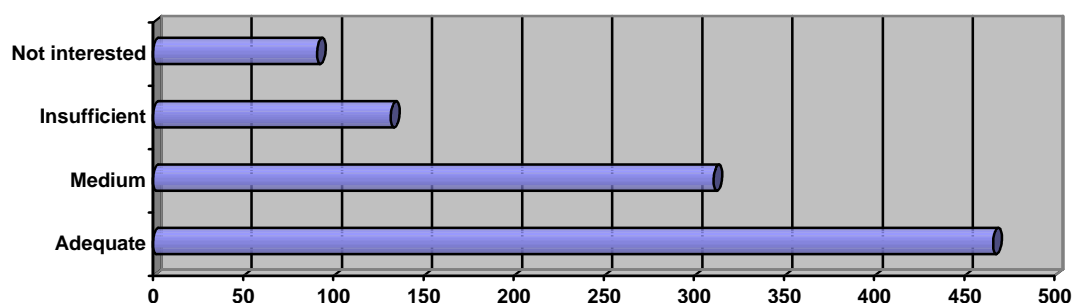


“Study of the right to vote and to be elected”

Social Research Institute,  
2004

The dissemination of information about candidates in general elections is more accessible than in local elections. The majority of the respondents or 63.4% answered that they received adequate information about candidates in the general elections whereas only 6% of them replied they had no sufficient information. However, dissemination of information of candidates during local elections is low.

**Access to candidate’s information during elections of Citizens’ Representatives Khurals in Aimags and the capital city**



“Study of the right to vote and to be elected”

*Social Research Institute,  
2004*

Less than half of the voters think that there is sufficient information about candidates for elections of Citizens’ Representatives Khurals in Aimags and the capital city.

The survey shows that one voter out of 10 is not interested in information about candidates of local elections. However, bigger number of voters replied that they were not able to get sufficient information even if they were interested.

The age groups have relatively different access to information about candidates of local elections. Merely 36% of the youth said that they had received adequate information whereas 15% replied there was no sufficient information at all.

**Voter Information Accessibility on Aimag & Capital City Candidates**  
(localities in percentage)

Districts	Sufficient	Medium	Insufficient	Not interested	Total
Songinokhairkhan	57.9	21.4	13.5	7.1	100.0
Khan-Uul	42.1	27.8	15.9	14.3	100.0
Bayangol	58.4	28.8	7.2	5.6	100.0
Bayanzurkh	32.8	39.2	16.0	12.0	100.0
<b>Aimags</b>					
Umnugovi	59.8	27.4	7.7	5.1	100.0
Khovd	42.7	40.0	12.7	4.5	100.0
Darkhan-Uul	45.9	30.8	17.0	6.3	100.0
Dornod	32.1	34.8	14.3	18.8	100.0

*“Study of the right to vote and to be elected”*  
*Social Research Institute, 2004*

It should be noted that information about local election candidates was less accessible to voters and less attention grabbing than in the general elections. In some Aimags only 60 percent of the voters were informed about the candidates whereas in other Aimags, for example in Dornod, information about the candidates was not sufficiently accessible. The



surveys show that 13-16 percent of the capital city voters had no sufficient information about candidates. The study also demonstrated that voters did not attach as much importance to the local elections as to the general elections.

#### Voter Information Accessibility on Soum & District Candidates

Districts	Sufficient	Medium	Insufficient	Not interested	Total
Songinokhairkhan	51.6	18.3	19.8	10.3	100.0
Khan-Uul	45.2	23.8	12.7	18.3	100.0
Bayangol	56.0	26.4	15.6	2.0	100.0
Bayanzurkh	23.2	31.2	24.8	20.8	100.0
<b>Aimags</b>					
Umnugovi	52.1	22.2	18.8	7.8	100.0
Khovd	34.5	30.9	18.2	16.4	100.0
Darkhan-Uul	46.5	24.5	18.2	10.7	100.0
Dornod	25.0	25.0	21.4	28.6	100.0

“Study of the right to vote and to be elected”  
Social Research Institute, 2004

**3.4.2.** Not only voters need to have access to sufficient information but they also need that information to be accurate in order to be able to genuinely exercise their right to vote.

#### Voter Evaluation of Information Content about Candidates

Content	Number of responses	Percentage
Presentation of Candidates	522	52.2
Rumor & Scandals	102	10.2
Defamation	29	2.9
Biased	186	18.6
Interesting & Unbiased	123	12.3
Other	38	3.8
Total	1000	100.0

“Study of the right to vote and to be elected”  
Social Research Institute, 2004

Approximately 30 percent of the survey respondents said that information about candidates could not be regarded fully legitimate for one or other reasons. For instance, voters received information that is too biased, partisan, based on rumor, and/or defamatory.

*We live in the countryside. Both parties dissuaded each other while presenting about themselves. It would be good if campaign agents are selected on the basis of certain criteria: at least those should be selected who are able to provide truthful information about their candidates and who do not dissuade their opponents. Some of the campaign agents start persuading to vote for their parties straightaway from the very first meeting (Focus group discussion notes, Umnugovi Aimag).*

It was observed that due to the abuse of power by political parties, mass media is used inequitably to promote candidates who are affiliated to that particular political party, creating partisan and biased environment. Use of a lot of “black PR” such as rumor and defamation by political parties and their candidates led voters to a situation that created difficulties to make a choice.

The table below shows voter evaluation of information content about candidates in terms of their localities.

### Content of Candidate Information

Districts	Presentation of candidates	Rumor & scandals	Defamation	Biased	Interesting & unbiased	Other	Total
Songinokhairkhan	59.5	11.1	1.6	19.0	7.9	0.8	100.0
Khan-Uul	54.0	9.5	2.4	17.5	11.9	4.8	100.0
Bayangol	56.8	7.2	4.8	11.2	15.2	4.8	100.0
Bayanzurkh	53.6	12.0	3.2	16.8	12.8	1.6	100.0
<b>Aimags</b>							
Umnugovi	65.8	2.6	.0	11.1	13.7	6.8	100.0
Khovd	41.8	9.1	1.8	33.6	13.6	.0	100.0
Darkhan-Uul	42.8	13.8	3.8	20.8	14.5	4.4	100.0
Dornod	44.6	15.2	5.4	19.6	8.0	7.1	100.0

“Study of the right to vote and to be elected”

Social Research Institute, 2004.

The high level distribution of rumor-based and defamatory information is related to the politicization and party competition at the local level. It was often reported that voters in rural areas had to base their choice on biased information due to inequitable power relations and positions of political parties in the countryside. Clear examples of such practice are Songinokhairkhan, Khan-Uul and Bayanzurkh districts, Khovd, Darkhan-Uul, and Dornod Aimags where, as demonstrated by 16-30% of the survey respondents’ reply, information about candidates was clearly biased and partisan.

**3.5.** The above-mentioned situation was affirmed by the analysis of broadcasting and advocacy during the elections. Analysis of promotional TV broadcasting in Ulaanbaatar during the local elections concluded that 66.7 percent was ordinary promotion, 8.4 percent was interview with candidates, 11.1 percent was news, 12.0 percent was paid TV programs, and 0.5 was statements.

Although contents of majority of these promotional TV broadcasting was presentation of candidates, political parties, and independent candidates, there were not a few cases where promotional broadcasting was used for spreading rumors and libels.

The table below shows analysis of contents of broadcasting and advocacy in mass media.

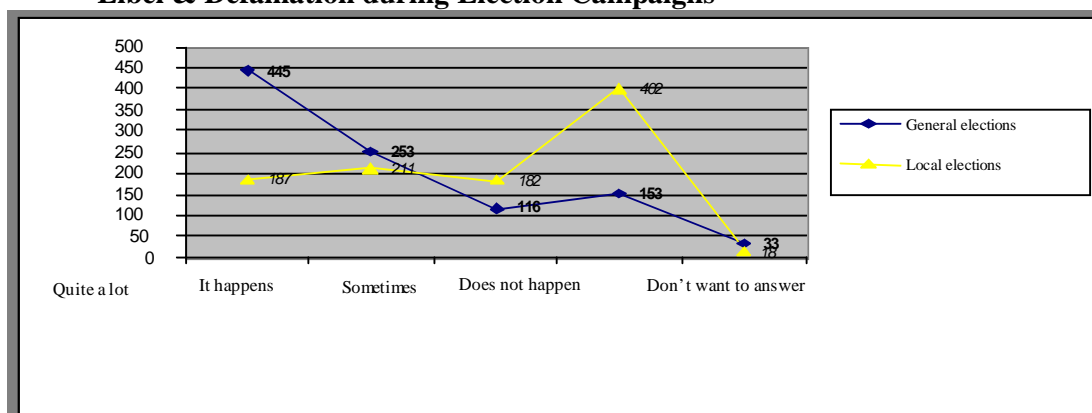
### Contents of TV Programs during Local Elections

Content	Repetition	Percentage
Presentation of political parties	1,045	65.1
Information by political parties	271	16.8
Libel against opponents	13	0.8
Defaming opponents	43	2.6
Calling on voters	201	12.5
Criticizing opponents	24	1.4
Discussion	8	0.4
Total	1,605	100.0

*“Study of the right to vote and to be elected”  
Social Research Institute, 2004*

In 2004 elections, unlawful acts such as libel and defamation have become normal practice of election campaigns. Moreover, this negatively impacts on human rights.

### Libel & Defamation during Election Campaigns



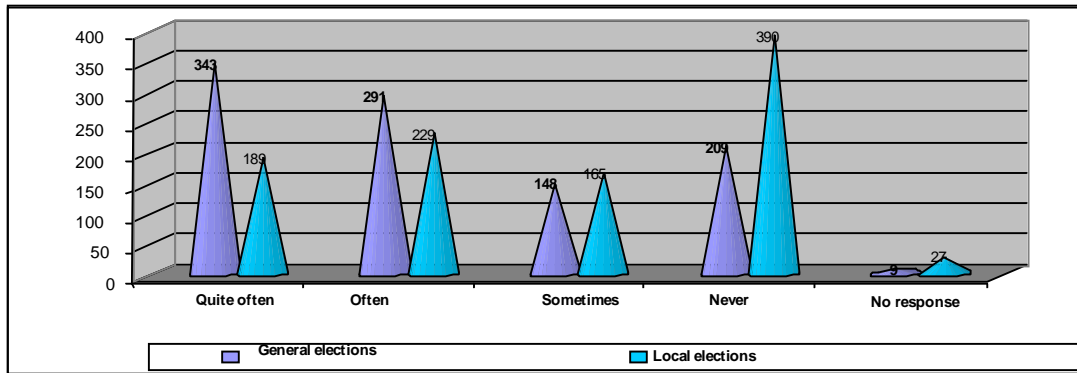
*“Study of the right to vote and to be elected”  
Social Research Institute, 2004*

The graph above shows that it is very common to libel and offend candidates during general elections (44.5%) whereas this is not so common during local elections (18.7%). Such political environment to libel and offend each other creates difficulty for voters to make choice and possibly undermines voter turnout. Unfair political competition, denial of each other and libel (so called black PR) create public distrust towards governance and politics and undermine right choice.

Although it is so well-known that political parties libel and offend each other, failure to take accountability of unlawful acts of libel and breach of candidates' rights seem to encourage the spread of such practice.

**3.6.** It is critical that unlawful acts of vote-buying have become widespread including empty promises and other forms of deception. This is a particular characteristic of general elections. Not a few respondents (34.3%) consider that empty promises are common during general elections to buy votes. The survey shows that although such practice is less during local elections, it still exists not to a small extent (18.9%).

### Empty Promises to Buy Votes



*“Study of the right to vote and to be elected”  
Social Research Institute, 2004*

The public has negative impression on empty promises during election campaigns. Such kind of empty promises impair public interest to make choice by misleading and sometimes creating vain hopes. The general elections revealed a tendency of the parties, coalitions and their candidates to extend various unreachable promises to the citizens and the public, concur and compete between them on these empty promises.

*Candidates usually persuade voters, libel other candidates, and promise to help voters in order to buy their votes. When dealing with low-income families of their constituencies, candidates distributed food and money to voters, cleaned-up communities, paid tuition fees of voters’ children who are students, and paid for some unemployed to study in vocational training courses (Observation note, Orkhon Aimag).*

*There were occasions of misinformation. For example, a candidate was taking credit for himself about loan scheme for rural poverty elimination and economic development (Observation note, Bulgan Aimag).*

Below are citations from manifestos of MPRP and “Motherland-Democracy” coalition, two major political forces, which have now become unfulfilled promises and statements.

Excerpts from the MPRP manifesto:

- One-time marriage allowance of MNT 500,000 for young couples marrying for the first time
- Single allowance of MNT 100,000 for every newborn baby
- Annual allowance of MNT 100,000 for families with more than three children

Excerpts from the “Motherland-Democracy” coalition manifesto:

- Monthly allowance of MNT 10,000 to every child below the age of 18
- Termination of employment in the public service based on nepotism.

**3.7.** Although the law prohibits paid and unpaid services including distribution of goods, material assistance, sports and culture events, health services and other acts to attract voters and to buy votes, this sort of misconduct has become widespread practice and a key aspect of election campaigns.

*Many of candidates are businessmen. They are buying votes of the poor Mongolian people with money (Focus group discussion notes, Darkhan-Uul Aimag).*

The table below shows respondent answers about vote-buying.

	General elections		Local elections	
Quite often	315	31.5	149	14.9
Often	278	27.8	227	22.7
Sometimes	149	14.9	203	20.3
Never	255	25.5	411	41.1
No response	3	0.3	10	1

*“Study of the right to vote and to be elected”  
Social Research Institute, 2004*

The table shows that every third of the respondents said that vote-buying was common. Candidate agents serve as intermediaries to individual voters whom they know well to give out money, gifts, clothes and other assistance.

The table below shows voter evaluation of impacts of illegal acts during general and local elections on individuals and their families. The respondents were asked if they and their families encountered any attempts to buy their votes during election campaign.

	Happened to myself		Happened to my family		No		Total
<b>Cash</b>	68	6.8%	69	6.9%	863	86.3%	1,000
<b>Gifts</b>	72	7.2%	130	13.0%	798	79.8%	1,000
<b>Jobs &amp; Posts</b>	36	3.6%	52	5.2%	912	91.2%	1,000
<b>Reception &amp; Banquets</b>	90	9.0%	73	7.3%	837	83.7%	1,000

*“Study of the right to vote and to be elected”  
Social Research Institute, 2004*

The survey shows that it is quite common to organize reception and banquets to buy votes. It is not less common to give out gifts (7.2%), cash (6.8%), and promise jobs and posts (3.6%), which are all forms of vote-buying.

#### **4. Secrecy of Ballots**

Secret voting is an absolute principle of the right to vote and it should not be restricted by any means. It is the responsibility of the state to ensure casting votes in secret. Secrecy of ballot is a long-recognised mechanism for insulating the voting process from intimidation (*Human Rights and Elections*, a Handbook on Legal, Technical and Human Rights Aspects of Elections, Professional training Series No.2, United Nations, New York, Geneva, 1994).

Observance of the secret voting principle means creation of equitable legal conditions that ensures voters are free from undue third party influence in expression of his/her political will and is able to choose among candidates, political parties and coalitions contesting in elections.

The national legislation clearly guarantees secrecy of ballots. However, researchers criticize the fact that arrangement of polling stations and booths does not fully secure voting in secret, free from surveillance and influence. In some cases, it was possible to see which candidates the voters were marking on their ballot papers.

Moreover, secrecy of ballots was heavily impaired during mobile voting during the 2004 general elections. There were numerous complaints about failure of election committees to make special voter registers for mobile voting, collection of mobile votes from those who did not actually meet the qualification for this procedure, and lack of observers of political parties or denials of observers of a particular political party in mobile voting procedure.

Majority of complaints related to 24<sup>th</sup> electoral district of the general election was rooted in administration of mobile voting procedures.

## **CHAPTER TWO: STATUS OF THE RIGHT FOR FOOD**

Everyone must be provided with adequate, safe and equitable nutrition in order to survive, work and to be healthy. This essential necessity is interpreted as the right for food. This definition previews the priority of determining adequate, safe, and the minimum and vital quantity by relevant criteria. Only based on concrete data enjoyment of this right could be properly assessed.

This right is reflected in a number of international instruments on human rights, which Mongolia had joined and ratified.

In the Universal Declaration of Human Rights (1948) it is stated that everyone shall have right for access to food in sufficient quantity in order to sustain health and feed his family. The International Covenant on Economic, Social and Cultural Rights (1966) declares that everyone should have adequate food.

The terming “right for access to adequate food“ means that every person should have that living standard, which will enable to buy sufficient food in order to sustain health. Right for adequate food involves access to safe, nutritive food in sufficient quantity.

Besides that food should meet requirements in both quantity and quality, it must be culturally and hygienically acceptable by the consumer, and be free of any harmful agents.

**2.1.** The idea of the right for access to adequate nutrition is not verbally expressed authentically in the Constitution of Mongolia. Nevertheless the concept is inseparable with the wording of the relevant laws of Mongolia as “the right to live in healthy and safe environment and to be protected from pollution and deterioration of the environment” as well as “the right to be provided with healthcare service”.

The idea of the right for access to adequate nutrition is reflected in the legislation of Mongolia in its own way. Thus it is guaranteed by nearly 10 basic laws of Mongolia, including in the provisions of Constitution, legislation on food, healthcare, hygiene, consumer rights, standardization, price policy and other. However, it must be recognized that by adopting a new Law on Food in 1999 aiming at improving the provision of the analogous law of 1995, in contrary, a step back had been resulted, leading to factual deterioration of the situation due to dropping out of certain key guarantees.

The previous legislation, the first of its own, had thoroughly reflected every advantageous of the provisions of international standards and of the relevant recommendations of international organizations. In conformity with that law a package of duties and responsibilities had been formulated, which had provided legal basis to oblige the government to provide the right for equitable to food.

Four years later in 1999 as the former law has been revised and reformulated a row of principal provisions had been cancelled. These provisions were to serve the task of guaranteeing the right of citizens to have access to proper quality food as well as those coordinating the state policy in this field.

**2.2.** Mongolia is in position to fully provide its population with immediate and long-term needs for food from domestic resources in near future. This capacity is guaranteed by the vast territory of the country, enormous livestock capacity and by abundance of natural resources.

### Food resources of Mongolia

Livestock in millions of species:	24.0 – 30.0
- mother stock	12.0 – 14.0
- calves	9.0 – 11.0
Annual meat production: in thousand tons of slaughter weight	230.0 – 300.0
Agricultural and pastureland: in thousand ha:	126000.0
- hayfield and pasture	124000.0
- plantation	1340.0
Annual harvesting land capacity:	800.0
- crop	600.0
- potato	11.0
- vegetables	3.0
Annual yield: in thousands tons:	
- crop (total)	600.0
- wheat	400.0
- potato	130.0
- vegetables	50.0
Potable water: in cubic km	34000.0

**2.3.** The analysis of the situation and trends of exploiting of food resources in Mongolia reveals that meat resources are produced, delivered and consumed in full capacity. Mongolia still exports meat product in huge quantities. As for milk resources Mongolia explores only 50-60 percent of the total capacity. Although the market delivery is near to fully meet demand, but when it concerns with the whole range of dairy industry end products supply is still far behind the existing consuming potential. Some steps were taken to review the physiological norms of milk product consumption. For instance, if the estimated average consumption norm was 740 ml per capita a day in 1980, it had been brought down twice lower and had been approved as 380 ml. In regard to other sources of food it seems more attention should be paid for substantial improvement in the supply of crop, especially wheat, potato and vegetables.

#### Production & Consumption of Key Products

No	Item	Unit	Annual output	Annual demand	Margin
1	Beef	Thousand tones	226.4	180.0	+46.4
2	Milk	Million tones	290.3	297.0	+7.1
3	Crop, total	Thousand tons	142.2	370.0	-227.8
	- wheat	Thousand tons	138.7	350.0	-211.3
4	Potato	Thousand tons	58.0	90.0	-32.0
5	Vegetables	Thousand tons	44.5	150.0	-105.5
6	Eggs	Million pieces	7.7	25.6	-17.9



The table shows that reforming of the crop industry is an immediate concern to the government. Thus except meat, since Mongolia is not providing the necessary agricultural products in quantities meeting the domestic market demand, these commodities are imported. At present Mongolia is importing around 80 percent of its flour, potato, vegetables and eggs demand and practically 100% of butter, powder and condensed milk, oil, fish product, sweets and rice demand. Flour, potato, vegetables are imported from neighboring Russia and China. As the current situation reveals Mongolia being a country with all the potential to be a self-sustaining agricultural state still the reality is that domestic production is far to match the domestic needs.

**2.4.** An important criteria for correct assessment of food supply could be based on the recommendations for key nutrition requirements.

As for Mongolia the nutrition requirement standards had been approved in 1981 and revised in 1997, and had been approved by the Minister of Healthcare.

**Annual Demand for the Key Food Products  
(per capita average in kg)**

#	Product	Demand	1990	1995	1999	2000	2001	2002
1	Meat & meat product	84.0	97.0	96.7	112.8	120.0	97.2	120.0
2	Milk & sub-product	138.7	118.0	125.3	146.4	130.8	100.8	130.8
3	Butter	9.8	3.0	4.2	2.4	2.4	2.4	2.4
4	Flour & sub-product	124.1	97.0	94.3	99.6	108.0	110.4	108.5
5	Rice	16.4				14.4	15.6	14.4
6	Sweets	21.9	23.0	8.7	8.4	10.8	12.0	10.8
7	Fish products	3.1	1.0	0.7	0.00	0.00	2.4	0.00
8	Eggs (in pieces)	85.0	29.0	2.5	3.6	8.4	14.4	8.4
9	Potato	43.8	23.0	11.3	165.8	21.6	26.4	21.6
10	Vegetables	73.0	20.0	7.9	12.0	12.0	16.8	12.0
11	Fruits	102.2	9.0	0.3	2.4	3.6	3.6	3.6
12	Oils	9.1	1.0	0.9	1.2	4.8	6.0	2.4

A comparative analysis of scientific recommendations for physiological consumption norms with that being produced proves that currently the demand of the Mongolian market is met only for meat and meat products. The physiological requirements in vitamins, essential amino-acids and basic ration, the demand is far from being met sufficiently. Thus for potato consumption the demand is satisfied only for 49.3%; for vegetables – 16.4%; butter – 24.4%; eggs – 9.8%; fruits – 3.1%; oils – 26.3%. What concerns fish product demand is out of consideration at all so far (Reports from “Financial, Food and Agricultural Independence Seminar”, UB, 2004).

No comment is needed to underline the strategic importance of agriculture in meeting the food demand. As the facts reveal in the recent couple of years 50% of plantations had been left out of rotation and exploitation. Consequently the supply of strategic foodstuff resources such as flour, potato, vegetables had collapsed by half. This fact might be convincingly confirmed by the following figures. In 1996 the country had harvested 225.0 thousand tons of crop, 47.0 thousand tons of potato, and 22.6 thousand tons of vegetables. This means that the yield had declined comparing to the average of 1985-1990 for crop - 3,4 times; for potato – 2.7 times and for vegetables - twice sharp (Data from the “Green Revolution” programme).

**2.5.** Although food demand may be sufficiently imported to cover domestic supply deficit, its nutritional quality inadequacy, health and hygienic concerns triggers great variety of health disorders. Food hygienically safe, sufficient in volume and composition is the basis of health security.

In accordance with the 2004 inspection report of the State Agency of Professional Inspection (SAPI) the following facts had been made public. Thus out of 97,451 samples of final products analyzed by approved criteria 16,455 samples or 17%, and out of 463 samples of raw materials – 182 or 39% had been diagnosed as being polluted, i.e. having hygienically impermissible agents. By chemical analysis it had been unveiled that 4.0%, by toxicological expertise 10% and by heavy metal detection test 0.9% had found facts violating hygienic requirements. These findings had exposed the fact that compared to the situation in 2002 the cases of violation of standards and norms had raised twice for chemical pollution, and for 8% what concerns toxicological violation. Analogously toxicological violation for 0.2%, bacteriological pollution - 0.2%, and heavy metal pollution for 0.5% compared to 2000 (SAPI Annual Report, 2004).

**Pollution Rate of Food Products**

Year	Chemical	Toxicological	Bacteriological	Heavy metals
2000		0.8%	9.4%	0.4%
2002	2.0%	0.2%	1.6%	
2004	4.0%	1.0%	9.6%	0.9%

Toxicological analysis is aimed at detecting fungi toxins, which are the main triggers of liver cancer, *and the tendency of poor toxicological quality products to increase in recent years becomes a serious concern.* Thus out of 1,040 samples tested by the United Central Laboratory (UCL) 6.8% had been polluted by fungi. Among such food products tea, coffee, cacao, crops and wheat were leading beyond match (SAPI Annual Report, 2004).

The current technological facilities enable the mentioned laboratory to test only 13 out of over 150 fungi colonies, which use to cause malign tumors, congenital malformations and hereditary pathology (G. Tsendsuren, G. Batmunkh “Alimentation Security and the Food Inspection Service”).

Results of the 2004 inspection by the UCL shows that out of 5,609 samples tested 2,059 or 36.7% had facts violating the bacteriological requirements of food safety. Thus the permissible levels of microflora presence (PLMP) had been violated in 65.6% cases, E. coli – 20.9%; for Bacillus cereus – 3.2%; foe Staphylococcus aureus – 1.2% and in 3 samples of tinned meat product had been detected Enterococcus (SAPI Annual Report, 2004).

**2.6.** Out of over 150 veterinarian diseases that may affect humans through food chain as FAO confirms brucellosis, anthrax, tuberculosis, foot-and-mouth disease are endemic in Mongolia.

There is a tendency of infectious veterinarian and parasitological diseases to increase from year to year. For instance, in the recent 10 years the epidemic outbreaks of brucellosis, tuberculosis, foot-and-mouth, infectious horse anemia had increased 1.2-19.2 times, and 30% of perished cattle were due to infectious diseases. Currently the existing veterinary service facilities do not permit to properly detect and diagnose in due time such infectious diseases that could be channeled to humans as brucellosis, tuberculosis, foot-and-mouth disease and leucosis, and as consequence this affection frequency tend to rise (State Veterinary Program, 1999).

Currently over 40% of raw meat is being delivered to the market circumventing veterinary control. The retail spots in general do not meet the sanitary and hygienic requirements. There is practically no refrigerator transportation system. Meat is sold at open places with no dust protection. Refrigerator on the ground is lacking in most of sales agent facilities. Salespeople do not use special overalls, masks and other accessories (Ch. Sodnomtseren, "Food Safety Policy and Guidelines", 2001).

Beside the fact that the veterinary inspection service is not able to embrace the whole supply chain for meat, dairy products and eggs, another concern is lack of proper facilities to analyze the sample and carry out required tests. In practice the inspection is carried out by visual and sensorial checks so far. The same situation as it had been described concerning meat supply and sale is fully valid for dairy products. Many private herders smuggle in their raw unprocessed milk and milk derivative semi-products eluding the veterinary checkpoints.

Among private meat providers and dealers that had been checked by veterinary inspection 62.7% had some fact and evidence of violating the relevant legislation and rules. Thus 28.2% of them were processing and selling meat in non-acceptable premises for production. On the other hand the salespeople are usually ignorant about the rules and requirements imposed in order to permit such business (Ch. Sodnomtseren, "Food Safety Policy and Guidelines", 2001).

**2.7.** The quarantine laboratory for inspection of plants and seeds of the SAPI United Central Laboratory had carried out in 2004 tests and analysis of 592 samples representing 13,103.9 tons of sow seed of 86 farms in ten Aimags. According to the UCL report they had checked 566 samples of sow seed, 3 samples of technical seed and 11 samples of wheat for consumption, and found that 97.8% of the samples did not meet the standard requirements.

For the 2005 sowing season 163 samples of 3,559.7 tons of wheat sow seed; 2 samples of 47.4 tons of barley; 4 samples of 81.4 tons of oats; 1 sample of 11.8 tons of rye, 2 samples of 203 tons of potato 26 sample 2.05 tons of 11 different vegetable had been inspected. As a result 57 samples or 62% of them did not meet the standard requirements.

The plant quarantine service had tested 162 samples representing 12,978.2 tons of 14 different species of domestic product; 2,013 samples representing 134,826.9 tons of 15 different species of imported product and 225 samples representing 17,454.3 tons of export products. As a result in 1,401 samples both of import and export products, out of total 2,400, i.e. in 58.3%, there were found seeds of quarantined plants, green and pink fungi, alive and dead eggs of parasites, storage tick and various aphisides thus not meeting standard food safety requirements.

Therefore in 120 samples representing 9,750.1 tons of sow seed there were detected 3 types of weeds in concentration up to 2,450 pieces per kg; 5 types of deadly plant disease – up to 1-49%, and alive and perished storage tick and of various aphisides (report of the quarantine laboratory for inspection of plants and seeds of the SAPI United Central Laboratory, 2004).

**2.8.** Out of 81,138.2 tons of 27 type and of 146 various assortment products imported in 2003 only 16.4% had passed lab analysis. Out of those samples covered by lab examination 31.2% of them had been detected as not meeting the food safety standard requirement by chemical test; 0.6% by toxicological tests and 5.3% by microbiologic test. By summarizing statistics data out of 207 imported alcohol containing beverage products of 64 retailers 7.0% did not

conform the requirements (D. Oyunchimeg, G. Tsendsuren, “The status of the right for proper and safe food”, 2004).

In the first semester of 2004 a total of 53,472 food product samples had been examined in 23 SAPI laboratories. Out of this volume 18% were imported items, and when tested by common criteria 16.7% of them did not meet the standard requirements. During the year six specialized laboratories had carried out fungi analysis tests, which had detected its presence in 18.9% cases. The product type analysis had revealed that in 16.7% fungi had been found in tea, coffee and cacao, 11% in fruits and 38.5% in various other food products (SAPI Annual Report, 2004).

**2.9.** Usually children, females and those of poor families are thin due to insufficient alimentation. Their undernourishment is usually expressed in deficit of proteins and caloria (PCD), anemia, rachitis, general exhaustion (fatigue syndrome), iodine deficit (ID). In contrary, in those food-addict individuals the deviation is expressed in fatness, atherosclerosis, hypertension, stroke, non-insulin diabetes, tumor to name a few.

It is well known that due to undernourishment the physiological development of children slows down and may be reflected in mental and physical retardation as poor memorizing, disturbed logic, and shall be expressed in general and complex backwardness. Therefore their immunity tend to rerun and be easily exposed to maladies, which shall tend to become chronic and recidivate.

Article 4.3 of the Law on Protection of Child Rights (1996) declares that guaranteeing “safe food vital for physiological development and health ...” is the inalienable part of social welfare policy”. However the Law on Food does not provide explicitly on the nutrition requirements for children. Within the framework of measures to implement the government program on elimination of “micro nutrition deficit”, including iodine deficit, the Law on Prevention of Iodine Deficit was introduced on October 10, 2003, which eventually stimulated the production of iodine containing salt.

**2.10.** Mother’s milk has all essential components for normal development of a child such as proteins, fat, carbohydrate, vitamins and microelements, and these ingredients are in optimal proportion.

Studies on breast-feeding during 1995-1999 have revealed the following stable trend during those 5 years - 92.6% of the studied contingent (neonatal) had commenced sucking mother’s milk within half an hour after birth. Therefore at the age of 4 months 99.5% of babies had continued being fed with mother’s milk, exclusively. At the age 4-6 months this figure was still high as 96.7% and between 6 and 9 months – 93.1% beside other types of baby food. From 9 months to 1-year age 92.9 percent was continuing breast feeding in addition to other richer diet. Up to the age of 2 years 75.9% of children were still receiving mother’s milk. So breast-feeding is declining at the second year of life (“Situation with nutrition in Mongolia”, Ministry of Healthcare, 2000).

In 2002 the percentage of breast-feeding infants exclusively up to 4 months age fell down to 54%. Therefore another study of 2001 “Consumption of substitute products and breast-feeding” had revealed that the percentage of babies breast-feeding up to the age of 6 months had dropped down to 32.6%. Taking into account this trend the state had imposed a radical reform aimed at making the exclusive breast-feeding term at least up-to 6 months (N. Udval, “The current situation with mother’s and enfant health”, 2004).

**2.11.** The artificially fed babies (soother fed) are becoming less safe from any infection, diarrhea or respiratory diseases. The mother's milk substitute products are usually expensive. In the past 5 years Mongolia had imported 543.7 tons of substitute products from 13 countries, which is a 6.6 fold increase.

**2.12.** The current situation with PCD, anemia and rachitic spread is directly related with the situation of nourishment of mothers and the state of feeding of babies as for quantity as well as for quality parameters. The state of feeding the children is as follows: 43.3% of babies of age 4-6 months are being given separately prepared food, whereas the rest of infants simply share family meals. In case of poor families sharing their food simply means increase of risk to fall into the deficit of vital components for health and physiologic development. It had been revealed that 54.45% of babies are given up to the one-year age flour and minced meat cream soups as additional ration beside mother's milk. From the age of one year the babies are sharing the family meal. Analysis of diet of children elder than 1 year shows that the percentage of children consuming additional meal at least 1-3 times a day flour products consist in 100% of the cases, meat products in 89.8% and milk products in 72.4%. As for fruits and vegetables only 21.9% of children had access to this consumption category.

The situation described above confirms that although children eat 2-3 times a day, poor composition of diet yields deficit of basic essential ingredients and malnutrition. Such misbalance of alimentation triggers immunity impairing, rachitis, anemia and other unavoidable complications of systematic and long term malnutrition ("Situation with nutrition in Mongolia", Ministry of Healthcare, 2000).

**2.13.** The national program on child development had declared to bring down the level of malnutrition and emaciation of children under age five down to 50% by the year 2000, with the base year of 1990. However, in 1999 among the children under age 5, emaciation occurred in 12.5%, retarded growth 24.6%, undernourished children 3.7%. These figures had proved that the situation had worsened compared with 1997. In 2001 the similar study results had revealed that emaciation was evident in 6%, retarded growth 22.3%, slim children 0.9% which though had confirmed relative improvement (D. Erjen, B. Enkhtungalag "Alimentation of children under age 5 among the rural contingent", 2002).

PCD spread is twice frequent in rural areas than in urban. If, for instance, in urban settlements PCD had occurred in 7.1% then in the province centers it was evident in 15.7%, and in soums in 19.4%. Therefore 97% of children suffering emaciation were from rural areas. The number of emaciated children increases by 2-3 times from the age 7 months, and at the age of 13-24 months reaches the pick of the spread. If among the infants of age 6-12 months being fed 1-2 times a day emaciation cases are present in 16.4%, retarded body growth in 32.8%, then among those children being fed 4-5 times a day these symptoms decline substantially, as for instance emaciation frequency is less 4.4 times and body development disorder is observed in only 8.7% of children.

The children of vulnerable families are at risk of emaciation probability three times higher. Facts show that nine of ten children suffering emaciation are living in rural areas. Among the children under age 5 of herder families, which had suffered severe livestock losses due to natural disaster, emaciation is observed in 15% of their population, poor body development in 36.1% of them. These figures show higher rate than that among the other herder families who were lucky to escape from such natural disasters. The bothering fact is that these figures tend

to grow steadily (N. Bolormaa et al., "Alimentation situation of children under age 5 among the rural contingent", 2002).

**2.14.** Rachitis is still widely spread among the children of Mongolia as a primary health concern due to undernourishment and general consequence of poverty. Every fifth child in the study had some indication of healthy bone development disorder. Similarly one child out of four covered in this study had visibly recognizable evidence of rachitis.

In the study group of children, 36.5% of those suffering in emaciation and 30.8% of those with fitness retardation had symptoms of general fatigue and exhaustion. The same health failure was found for 14.9% less among the children not stroke by emaciation and for 10.7% less among those infants who had no growth problem. Among breast-feeding babies the mentioned health failure occurred in 14.4% of children. In those who had been given additional food this symptom occurred more than twice. Similarly among breast-feeding babies until the age of 6 months the disease was observed by 2.6% (D. Erjen, B. Enkhtungalag, "Alimentation situation of children under age 5 among the rural contingent", 2002).

**2.15.** Adequate food is essential for securing normal healthy conditions of the human organism and for proper functioning of the organs and systems. Research works concerning nutrition conditions and methodological studies based on calorie sufficiency had commenced in Mongolia from 1960-s.

By Order No. A/318 from 1997 of the Minister of Health and Social Welfare titled "Recommendation on Nourishment" a guideline document was approved on a list of food products suggested for average daily consumption. It offers the following criteria: daily food consumption of adult person should contain 230 g of meat and meat products, 380 g of flour and flour products, 340 g of milk and milk products, 27 g of butter, 60 g of sugar, 120 g of potato, 200g of vegetables, 25 ml of sunflower oil, 45 g of rice, 280 g of fruits, 4 g of fish and fish product, 7g of eggs. This quantity and quality is supposed to supply 10,485g of proteins, 76.23 g of fat and oils, 406.74 g carbohydrates or energy equaling to 2,731.18 kilo-caloria.

The recommended product range and quantity provides the following amount of nutrition and essential supply, such as 86.2% of calorie, 76.0% of proteins, 120.8% of fat and oils, 1.1% of acids, 33.5% of vitamin "A", 83.3% of vitamin "C", 71.1% of vitamin B<sub>1</sub>, 83.3% of vitamin B<sub>2</sub>, 62.2% of phosphor and 70.0% of iron.

As the studies had revealed food product consumption was related with family earnings, and as income fell over the years the per family member consumption dropped. For instance in Ulaanbaatar city a member of a family with income less than minimum income level had consumed vegetables 1.9, sunflower oil 3.7, fruits 6.2, milk and milk products 4.7 times less than a member of a family with income rate higher than minimum income level.

These figures reveal that a member of a family with income higher than the minimum income level consumes food with 135% energy supply, which is even higher than that recommendations by WHO. In contrast members of families receiving the minimum income level earnings are receiving 96.2% of calorie requirements, whereas members of low income families are able to receive only 68.5% of calorie requirements.

## **CHAPTER THREE: STATUS OF THE RIGHT TO LIVE IN SAFE ENVIRONMENT**

From the third annual report we had commenced to review issues related to the implementation status of the right for safe environment. In the present report we had attempted to scrutinize the situation in the construction industry, fuel distribution service network and transportation in Ulaanbaatar city from a human rights perspective.

**3.1.** At present there are two major problems related with construction industry in Ulaanbaatar. From one hand there are many buildings erected in 1950-1960-s, thus the municipal underground engineering system is outdated already. On the other hand the newly built houses and compounds do not always meet the standard requirements, moreover, these new constructions use low quality building materials. There had occurred several accidents due to technological errors such as crashing down of roofs and walls of external décor. Premises had revealed to be not protected from wind, precipitation, demolishing and reconstruction due to bricklaying miscalculations.

In recent years reconstruction of ground floors of former residential buildings on main streets had unfolded without proper control as a consequence of aggressive private business expansion. Thus previously ordinary flat design is being changed into service premises of every sort like, hairdressing salons, catering and retailing business spots, which include removing wall sections, doors and windows attaching extra space. Such forced neighboring with entertainment services just over a single wall, all out reforming of the house design and breaking the previously calculated architectural and engineering balance is endangering the safety of the entire building, which shall wait for a minor trigger once to collapse down. The cracks of walls of some residential buildings are a warning omen of future tragedies. For instance a 60 apartment residential building in the 6<sup>th</sup> khoroo of Bayanzurkh District is literally stuck up all around by 16 service enterprises. The new owners of the premises had broken through 12 entrances anew. So there is no guarantee that this building is safe and seismically proof anymore.

Ulaanbaatar is located in active seismic region. So the mentioned intervention into house construction without proper control is increasing the risk of these buildings to fall apart at a level of 4-5 Richter scale earthquakes. Such intervention is embracing the whole of the so called “40,000” and “50,000” residential area in downtown all along the Peace avenue section from Turkish embassy to west intersection, e.g. 1.5 km in length, 150-160 m wide zone of over 30 hectares.

**3.1.1.** In accordance with the reports of the professional inspection service these construction sites had been built with violation of legislation and construction technology standards. As they report it is an ordinary everyday situation when the experts and inspectors detect various and multiple discrepancies with law and rules. These sites either have technical documentation with rude technology mistakes or none at all. Their owners managed to evade the professional expertise and thus having no permission from architectural, fire extinction service, sanitary and hygienic control service agencies.

Such violation in every possible way of the provisions of the Law on construction tends to further unfold due to grid, lack of control and accountability system, bitter irresponsibility and appallingly poor education and low awareness. Thus the initially correct technical documentation may be voluntarily changed by sudden new idea of the owner in the middle of the process of construction or “justified” as adaptation to the existing shortcomings. The other

version is when technical prescriptions are simply absolutely ignored. Some sites had been built “by absolutely laic means and naked eye”, i.e. with no sketch sheet or piece of paper or permission at all.

The professional technology and rules are violated all through and practically by every contractor. Such impermissible cases of violation like no construction process recording is being kept, the construction work stages had not been approved prior to erection, the customer’s order is not being revised by professional experts.

**3.1.2.** There are many cases in the city when the lift maintenance rules are not pursued at all and lead to break of lifts. Lifts frequently have no light, the space between the cabin and entrance threshold is for 50-100mm wider than the permissible gap. Wear and tear condition of devices is beyond service norms. The lift door is often out of work. In many buildings the lift hawser is badly eroded. All in all lifts is one of potential dangers to cause accident or tragedy.

**3.1.3.** There are constant claims from the part of construction companies or the residents that the buildings and interior finishing are not made of proper and high quality construction materials. Namely many buildings do not have air conditioning engineering solutions à priori, or due to technical errors in some buildings humidity accumulates beyond hygienic requirements. Waste bunkers are too close to everyday environment. Such “organized chaos” is due to machination of some construction companies making direct deals with customers on the basis of greed interest, and as result ignoring the standards and violating the rule of non-conditional priority of technologic requirements. From the other hand the relevant public authorities are breaching their duties to systematically inspect on the ground when construction is in progress.

**3.2** The question whether fuel products are stored and distributed strictly pursuing the rules and standards is a priority issue of guaranteeing secure environment for citizens. Fuel distribution sites are construction compounds composed of fuel receiving, storing, tanking and redistribution facilities;

Last year 193 fuel distribution spots had been inspected in Ulaanbaatar. It had been clarified that 123 such fuel stations had been built with no technical and construction documentation. Furthermore they have violated the rule of secure remoteness from residential buildings.

Out of 17 tank stations located in three districts the inspection had found that 15 sites had been distanced from residential buildings and commercial service spots for only 5-30 m away and only 2 of them had kept the norm of at least 50m radius (Standard of Mongolia, No.4628-98).

Instant polling among the residents revealed that 62% of them expressed their worries that the tanking station was built too close to their living area and thus they feel endangered.

**3.3.** At present there are 120,418 cars registered in Mongolia. In Ulaanbaatar alone 67,361 vehicles are registered, which makes 55.9% of the total park.

**Vehicle Types**

No	Types	2004		
		Nationwide		Ulaanbaatar
		Quantity	Quantity	Percentage



1	Sedan	79,691	49,123	61.4
2	Public traffic bus	10,645	6,553	61.6
3	Trucks	25,430	9,658	38
4	Special purpose	4,652	2,027	43.6
<b>Total</b>		<b>12,048</b>	<b>67,361</b>	<b>55.9</b>

Out of the total car park of Ulaanbaatar 79.4% is in exploitation exceeding 7 years, thus practically worn out. New cars and those running less than for 3 years so far are making only 7.8%.

#### Vehicle age condition in 2004

No	Exploitation time	2004			
		Nationwide		Ulaanbaatar	
		Quantity	%	Quantity	%
1	Up to 3 years	16502	13.7	5266	7.8
2	4-6 years	21632	18	8620	12.8
3	7-10 years	29141	24.2	16547	24.6
4	Exceeding 11 years	53143	44.1	36928	54.8
<b>Total</b>		<b>120418</b>	<b>100</b>	<b>67631</b>	<b>100</b>

(Summary report of technical inspection of means of transportation of Mongolia, 2004)

Exponential growth of the car park and traffic jam are causing the following narrow moments of negative character:

- air pollution had exceeded the norms multifold;
- traffic security is becoming hot topic, risk of traffic accident is picking up.

The worn car exhaustion delivers 40% of air pollution with the most toxic agents.

**3.4.** As of the year 2004 the paved road total length of Ulaanbaatar was 361.1 km. Out of this total asphalt paved is 300.4 km and concrete paved is 60.7 km. The satellite districts and outskirts settlements have 78.0 km of ground road. Altogether there are 50 bridges out of which 44 are iron bar cement constructions and 6 wooden bridges.

#### Road Classification/Length

No	Road categories	Length in km	Percentage
1	National rank paved road	54.45	15.1
2	Municipal paved road	202.65	56.1
3	District rank road and passages	104	28.8
<b>4</b>	<b>Total</b>	<b>361.1</b>	<b>100</b>

(Ulaanbaatar Municipal Investment Department, 2004)

The streets and the entire road network of Ulaanbaatar are indeed totally out of date. They cannot meet the requirements of hectic and overloaded traffic. Due to this the roads are a key factor of traffic accidents. On the other hand urban development policy is violated severely if

it works at all. Land ownership business is seriously affecting the destiny of further road development by cutting more and more space from road reserves.

The city traffic affairs are in charge of the Traffic Police Department. There are 12 permanent traffic police regulation posts and 275 traffic policemen coordinating the traffic in two shifts.

In recent years new fluorescent traffic signs had been installed in the city but they get out of use quickly and nothing is done to replace them systematically.

The zebras are not refreshed systematically. The drivers violate the traffic rule of priority right of pedestrians at the crossroads and zebras. The drivers breach their duty to slow down while coming close to crossroads.

### Damage due to Traffic Accident

No		Number of traffic accidents				
		2000	2001	2002	2003	2004
1	Fatal accidents					
	<ul style="list-style-type: none"> <li>• nationwide</li> <li>• in Ulaanbaatar</li> </ul>	338 141	335 97	327 122	391 145	385 102
2	Light and severe damages					
	<ul style="list-style-type: none"> <li>• nationwide</li> <li>• in Ulaanbaatar</li> </ul>	1616 940	1812 1078	1636 818	1224 692	2312 1119
3	Material damages (mln ¥)					
	<ul style="list-style-type: none"> <li>• nationwide</li> <li>• in Ulaanbaatar</li> </ul>	483.2 215.6	289.7 127.6	658.3 384.4	729.9 424.4	354.3 127.4

(O. Batjargal, Traffic Police Department, , 2000-2004)

The study confirms that traffic accident rate and the damage due to it as in the whole country as well as in Ulaanbaatar are high, and recently it has a trend to increase exponentially. This means the Traffic Police Department should take proper steps in order to thoroughly analyze the pros and cons, and develop prevention policy for immediate implementation.

Traffic damage is measured by death rate per each 100 accident or 100 physical damage of victims. Taking into account the population and car park ratio the traffic accident originated mortality rate probability is for 14% higher than in other countries.

The problem of disabled pedestrians with impaired vision and hearing is becoming an urgent topic to be regulated properly. With this purpose a special local traffic regulation modification study had been carried out near the industrial Khan-Uul District and at dormitories of blind workers in Sukhbaatar District. Visually impaired citizens must change two buses in order to arrive to the factory. Then as pedestrians they have to cross 5-6 roads, and 2 of which are heavy traffic streets. Their way to and back from work is so complicated that even a healthy person could posse high risk and probability to be caught in any accident. These disabled people must cross 27 hurdles and barriers of passing. Ordinary people lack the goodwill and awareness to help the disabled to cross the street. The drivers never stop in respect of such disabled. As one of disabled respondent had reported sometimes he has to wait for 2 hours to cross the street.

A detailed inspection of the sideways and paths where the blind workers pass everyday was made during January 12-17, 2004. Just to start with, right at the gates of the factory there were multiple concrete blocks which were seriously disorienting and complicating the proceedings for blind people. The bridge slopes and a part of path to reach the traffic road with slight elevation were covered by ice. The Dundgol bridge is almost a wreckage and too narrow. So it is easy to misstep and fall down from the bridge for it has no banister at any section. The traffic sign warning that "here is place of crossing for blind people" had been taken away by hooligans. Just in the neighborhood of the factory a private tire service is located and the drivers never care about correct passing - the workshop is out of the road and the road border blocks had been removed and were lying chaotically. Furthermore there is no special passing way arranged for blind people in the nearby residential area, which the blind workers must trespass through. Thus in order to reach the bus stop these people must cross 5-6 zebras, circumvent 12 iron fenced roads, and 50-60 cm high concrete hatch of underground engineering system. Altogether this march with hurdles is 710m long.

The special secondary schools for blind and deaf children No.29 and N.116 are located on the territory of Sukhbaatar district near a commercial area called "Zuun Ail". In the school No.116 there are 75 pupils. Out of them 40 children are living in the compound's dormitory. The rest 35 children must come from every corner of Ulaanbaatar with the help of adult or senior guides.

In the area of "Zuun Ail" there is a special sign on both sides of the road warning that "here is a place of crossing for blind people". The school is located at a distance of 170 m from the bus stop. Currently the area of crossing is occupied with construction works. Altogether 16 barriers were erected or placed on the way for blind children, and essentially making their commuting impossible. Thus such a situation is a direct threat to lives of those children.

## COMMENTS AND RECOMMENDATIONS

The following recommendations and opinions are submitted together with this annual report.

**1.** It is essential to revise the election legislation. It is equally important to ensure that principles of universal and equal suffrage and free elections are fully respected throughout the election process, particularly in the establishment of election committees, nomination of candidates, election campaign and production of voter register. Specific recommendations based on the findings of the study are as follows:

- 1.1** Ensure plural representation in election committees inclusive of political parties, coalitions and non-party representation; make the process of establishment of election committees open;
- 1.2** Improve legal and economic guarantees of election committee recruits; create a mechanism that recruits election committee members based on their knowledge, education, integrity, and experience;
- 1.3** Strengthen accountability of officials in charge of production of voter register; enhance effectiveness of election committee and other independent monitoring of accuracy of voter registers;
- 1.4** Re-draw electoral boundaries taking into account substantial discrepancies among the current electorates;
- 1.5** Reflect on lack of principle of equality caused by abuse of public resources by ruling political forces including vehicles, premises, budget, and mobilization of public servants in election campaigns;
- 1.6** Revise the election legislation to the effect to eliminate frauds related to vote-buying including empty promises, distribution of cash, gifts and other incentives.

**2.** The right for access to adequate and safe food is becoming an increasing concern to ensure human rights in Mongolia, and for that purpose the following measures should be taken:

- 2.1** Add to the provisions of the Law on Food (1999) obligations and responsibilities of governmental institutions aiming at improving delivery and supply of adequate and safe food;
- 2.2** Substantially improve the inspection and coordination role of governmental institutions in order to secure imported food safety;
- 2.3** Significantly improve the role of the State Agency of Professional Inspection in the field of monitoring food security and to increase the capacity and technological base of the SAPI laboratories;
- 2.4** Revise and update the nutrition standard for the population.

**3.** The present situation with construction planning, urban development, traffic and fuel distribution network is seriously violating human rights for secure and safe environment.

- 3.1** Systematize and stabilize technological and professional inspection of activities in the field of construction, permission issuing service responsibilities and the implementation of the construction legislation;
- 3.2** Make relevant conclusion on the basis of analysis of the present chaotic situation with land utilization and to add adequate provisions into the Law on Construction (1998) obliging professional institutions to maintain proper standards;
- 3.3** Reclassify the crossroads and main streets in order to rationalize the car flow and traffic efficiency, to place traffic rule signs at every spot of importance, to introduce more traffic signal posts and necessary engineering installations;

- 3.4 Introduce new strict rules on mobile patrol police service at the locations and at the time of most hectic traffic, and when traffic jams and accident are highly probable, to refresh and keep in good condition the zebras, tunnels and crossroads.

# APPENDIX

## 1. NHRCM STRATEGIC PLAN 2004-2006

### INTRODUCTION

It has now been some time since the National Human Rights Commission was established and began operations. During this period, the Commission has worked towards realizing its mandate under the law to protect and promote human rights and to monitor the implementation of the provisions on human rights and freedoms provided in the Constitution of Mongolia, in national laws and in the international treaties ratified by Mongolia.

The Commission's mission statement is to champion the sacred cause of protecting human rights in order to ensure the realistic implementation of everyone's human rights.

The highest priorities of the Commission have always been: to upgrade the quality of human rights education and promotion among the people, in close cooperation with state and non-government human rights institutions and the mass media; fighting with determination against all kinds of violations of human rights; creating the conditions that will facilitate people's struggle for their legitimate rights; and building confidence and developing efficient and effective cooperation internationally and regionally on human rights issues.

We express our gratitude to the British Embassy in Mongolia, the Canada Fund in Mongolia, the Government of New Zealand, the ILO in Bangkok, UNDP and the UN Office of the High Commissioner for Human Rights for their financial assistance in successfully implementing the Commission's first Strategic Plan; and to the Australian Human Rights and Equal Opportunity Commission, the Human Rights Commission of New Zealand, the Danish Institute for Human Rights, the National Human Rights Commission of India and the Secretariat of the Asia-Pacific Forum of National Human Rights Institutions for their generous help and exemplary support for the NHRCM's independent functioning, and for sharing their experience with the Commission.

The Commission also greatly appreciates contributions made by civil society organizations, state agencies and scholars – for their valuable comments on and criticisms of our activities undertaken since the Commission was established. We will work towards deepening our mutual cooperation.

The Commission has developed its second Strategic Plan for the period 2004-2006, based on an assessment of evaluations conducted on the Commission's 2001-2003 Strategic Plan, on comments and suggestions made by the agencies with whom we collaborate, and on an analysis of studies conducted on the state of the country's human rights and freedoms.

This strategic plan is not restricted to the limitations of the current resources, budget and capacity of the Commission. Many important activities of this strategic plan can be realized only within the framework of the joint UNDP/OHCHR project supporting the Commission's capacity development. The Commission also took into account the potential for extensive cooperation with other funding institutions in developing this strategic plan.

In all its operations, the Commission will firmly adhere to the principles of the rule of law, the protection of human rights and legitimate interests, openness, transparency, justice and independence.

## **NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA STRATEGIC PLAN**

### **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 serious 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 10<sup>th</sup> 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 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> 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.

## **2. NHRCM 2004 ANNUAL ACTIVITY REPORT**

### **FOREWORD**

The National Human Rights Commission of Mongolia is now in its fourth year, following its establishment in February 2001. Since that time the Commission has functioned under a Strategic Plan developed every three years. This year the Commission adopted its second Strategic Plan for the period 2004-2006 and has started implementing it. The strategic plan identified four main goals of the Commission for the period 2004-2006.

#### **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 organizations and civil society organisations enhancement of their human rights capacity.

#### **Goal Four**

The consolidation of the NHRCM as Mongolia's expert human rights organization that is able to fulfill its vision, mission and mandate as determined by the law, and is so recognized by the official sector, civil society and general public, as well as regionally.

This report presents the Commission's activities for the year 2004, in relation to the goals and objectives set out in the Strategic Plan, and consists of following main sections:

- Human rights education
- Human rights promotion
- Human rights examination, research and inquiry
- Complaints handling and processing
- Opinions, Recommendations and Demands
- International cooperation

## ***1. Human Rights Education and Training***

### **1.1 Human rights training organized in 2004**

- “Protection of human rights in detention centres and prisons”, training for all prosecutors and judges authorized to issue approval for detention and arrest in the capital and all districts and provinces of the country, April-October.
- “Current situation of trafficking in women”, training for prosecutors, judges and investigators, March.
- Training sessions and workshops for the police officers:
  - 1) “Human rights during the prosecution process”, training for case registrars, inspectors and investigators of the police departments of the Sukhbaatar, Chingeltei, Bayanzurkh and Khan-Uul districts of the capital city, March-May-October-December;
  - 2) Training on the Convention against Torture (CAT) for the police officers in collaboration with the Police Academy, February-December;
- “Resolving complaints of violations of human rights through mediation and conciliation”, training for complaints handling officers of administrative agencies, advocates and NGOs to improve their skills in dealing with human rights complaints, December.
- Training for lecturers of all fourteen law schools, February, as part of the “Model Human Rights Curricula” project for law schools.
- “Reform programme on human rights education”, conference involving relevant Ministries, Institutions, and Universities, March. The conference involved over 60 participants exchanging opinions about improving teaching human rights methodology and techniques and how to include human rights in formal education curricula .
- Organized human rights training of trainers as part of “Human Rights Open Days” road shows in Uvurkhangai and Bulgan provinces, May-December. The training was for representatives from all administrative units of these two provinces as well as participants from Bayankhongor, Khuvsgul, Selenge, and Orkhon provinces.
- “Human Rights and Torture” and “Right to Claim Compensation”, public seminars, Second and Fourth quarters.
- Two training sessions for the authorized local representatives of the Commission on the holding of human rights open days and on organizing human rights training, February-October.
- As part of the project to establish legal aid centres for the citizens of three ger districts in the capital city, the Commission organized two training courses for selected law students from three law schools who will provide free legal services to those in need. The training gave the students in-depth and practical human rights understanding.
- As part of “Human Rights Open Days”, the Commission organized human rights education and promotional activities in Uvurkhangai, Sukhbaatar, Dornod, Khentii, Selenge, Darkhan, Omnogobi, Dundgobi, Orkhon, Bulgan provinces. These activities were aimed at ensuring the implementation of obligations under international human rights instruments ratified by Mongolia, under the Constitution and under other Mongolian laws, in order to prevent human rights violations by local administrative and judiciary organs or by private enterprises and organizations.
- On the initiative of the “Gan Uzeg” Foundation of the Mongolian Media Institution (MMI), the Commission organized a seminar involving media representatives of twenty-one provinces and four regional coordinators of MMI, November.

- As part of the Commission’s 2003 and 2004 studies, surveys and inquiries (both conducted and ongoing) the following meetings and press conferences were organized:
  - 1) “Ecology, Environment and Human Rights”, press conference, January;
  - 2) “Employers’ administrative requirements and responsibilities in ensuring the implementation of rights related to work in the Mining Sector”, meeting and press conference with related institutions, ministries and representatives of owners of mining companies, January;
  - 3) Round table discussion on the findings and results of a study on the “Status of the implementation of principles for non-discrimination in employment”, as part of the theme “Non-discrimination in employment”, January;
  - 4) As part of the study into “Status of the implementation of the right to freedom of speech and opinion and the right to demonstrate peacefully and to hold public meetings”, meeting and press conference on the subject “The right to organize peaceful demonstrations in Mongolia”, February;
  - 5) “Equal opportunity to participate in social affairs”, seminar jointly organized with the National Association of Mongolian Disabled Citizen’s Organization, November;
  - 6) “Status of the right to adequate food”, meeting and press conference as part of the study, December.

## **1.2 Major achievements**

Over the numerous training programmes it has organised, the Commission has considerably increased and improved its expertise in effective methods of teaching, training and organizing human rights training programmes. The training materials and handouts developed on the initiative of both Commissioners and staff have received high praise from participants.

Evidence of the Commission’s achievements in human rights training and education is seen in the increasing number of requests coming from various organizations and institutions seeking to organize human rights training and from the positive expressions of appreciation in the surveys conducted at the end of each training session or workshop.

## ***2. Human Rights Promotion***

### **2.1 Human rights promotion activities organized by the Commission in 2004**

- The series of ten human rights radio programmes developed in 2003 with the support of the OHCHR and UNDP, and broadcast by the Mongolian National Radio, was sent to the authorized local representatives of the Commission in the capital and all provinces of the country for broadcast at the local level to the general public, ongoing;
- The “Undur Bosgo” radio drama series promoting the rights of the child was broadcast on local radio stations in Uvurkhangai, Tuv, Hovd, and Khentii provinces;
- Prepared six TV documentaries, which were broadcast to the general public, about student contests on the themes “Tsaatan or Reindeer Herders of Great Taiga”, “Freedom to Demonstrate Peacefully and to Hold Public Meetings”, “The Right to Own, Use, and Possess Land”, “Rights of the Disabled”, “The Right to Claim Compensation”, and “Torture and Human Rights”;

- Organized a public hearing on the 2004 Report on the Status of Human Rights and Freedoms in Mongolia, involving over 60 representatives of state and non-government organizations, international organizations and the media;
- Organized a student contest on the theme “Torture and Human Rights” on the occasion of International Human Rights Day among eight law schools. 48 students participated in the contest and about 1000 students observed;
- Updated training materials for human rights trainers and distributed them during training of trainers;
- Produced a guideline on “Alternative Dispute Resolution” and distributed it to participants during ADR training;
- Produced human rights promotional materials for the public on such human rights issues as freedom of speech and opinion, the rights of victims, torture, the rights to vote and to be elected, the issue of human trafficking, and the rights of people with same sex orientation;
- Organized Human Rights Open Days in Bulgan, Darkhan-Uul, Dornod, Dundgobi, Orkhon, Uvurkhangai, Omnogobi, Sukhbaatar, Selenge, and Khentii provinces.
- Organized a speech contest on “ Torture and Human Rights” among university students, researchers and scholars in March and April;
- Organized the official publication of the international human rights conventions and treaties to which Mongolia is a party, in collaboration with the Ministry of Foreign Affairs, and published the first series of the treaties in the official “State Journal” of the Parliament of Mongolia;
- Published in daily newspapers the speeches of the Secretary General of the UN and the Chief Commissioner of the NHRCM on the occasion of International Human Rights Day;
- With the Centre for Human Rights and Development, initiated and jointly organized a national seminar on “Food Sovereignty” within the framework of “The People’s Caravan for Food Sovereignty” in Asia-Pacific countries,;
- On the initiative of the National Disaster Management Agency, the NHRCM organized a human rights competition jointly with the Agency;
- On the initiative of the National Association of Mongolian Disabled Citizen’s Organization, the NHRCM jointly produced a TV documentary for the general public on “The rights of the disabled”;
- On the initiative of the Central Intelligence Service School, the NHRCM jointly organized a competition on “Best Human Rights Motto and Definition”;
- On the initiative of the Songinohairkhan district’s Secretariat of the Governors of the Capital City, the NHRCM jointly organized a competition on “Human Rights and AIDS”;
- On the occasion of the International Human Rights Day, organized a “Books Celebration” to introduce to the general public books published by the NHRCM. Over 80 representatives of state and non-government organizations, and international organizations, participated in this activity;
- Lecture on the concept of human rights to 120 students of the University of Trade and Industry.
- Lecture on human rights for the National Disaster Management Agency and associated departments, involving over 100 people;
- Lecture on the concept of human rights principles for public authorities, provincial governors and local citizen’s representatives of the capital city, Tuv, and Khentii provinces, within the framework of the HURISTMON project, involving 60 people;
- The Commission published the following books and booklets:

- 1) Report on the Status of Human Rights and Freedoms in Mongolia, 2004, in Mongolian and English;
- 2) Book on “National Human Rights Commission over Three Years”;
- 3) Book on “Compilation of government reports to the UN Human Right Committees and Compilation of notes and recommendations of the UN Treaty Bodies”;
- 4) Handbook on “Combating Torture”;
- 5) Book on “Compilation of national and international standards and legislation on the rights of vulnerable groups”;
- 6) Booklet on “The Convention against Torture”;
- 7) NHRCM quarterly newsletter

## **2.2 Major achievements**

Many requests came from various organizations to conduct joint human rights promotion activities in 2004.

Jointly with the Ministry of Foreign Affairs, the Commission organized the official publication of the international human rights conventions and treaties to which Mongolia is a party and published them in the State Gazette, the official magazine where laws and regulations are published.

## **3. Human Rights Examination, Research and Inquiry**

### **3.1 Research and studies undertaken on human rights**

- 1) Comparative analysis and review from a human rights perspective conducted by a national consultant on the compliance and consistency of government laws and legislation with basic human rights principles;
- 2) Survey on the status of the freedom to demonstrate peacefully and freedom of assembly, conducted by a national consultant;
- 3) Survey on the status of the right to land ownership and possession;
- 4) Survey on the status of the right to live in a healthy and safe environment and to protection from environmental pollution and damage to the ecological balance;
- 5) Survey on the status of the social protection of vulnerable social groups, and the right to material and financial aid prescribed in legislation;
- 6) Survey on the status of the implementation of principles for non-discrimination in employment;

As a result of the above surveys and studies, the 2004 annual report on the status of human rights and freedoms in Mongolia was produced by the NHRCM and recommendations, opinions and proposals were issued to the relevant institutions and officials.

### **3.2 Inquiries and investigations on human rights**

- The NHRCM jointly organized with the Ministry of Justice and Home Affairs a nationwide investigation into all places of detention to assess the implementation of international and national laws and legislations, January;
- Based on complaints received by the Commission about the conditions in prison facilities of the central prison hospital and the pre-trial detention centre hospital, the

Commission took an investigation of conditions in pre-trial detention centers and prisons and issued appropriate demands and recommendations, September;

- From June to December, the Commission undertook a joint comparative analysis with a national consultant and a professional research organization on international treaties and conventions related to elections and Mongolian laws and legislation on elections. The Commission undertook monitoring and analysis of the implementation of the rights to elect and to be elected during the 2004 national and local parliamentary elections. As a result of this inquiry, the Commission will make recommendations for changes to related election legislation, regulations, policies and procedures.

The Commission plans to conduct research on the following issues and has started to select national consultants. Research started in November and will end in the first quarter of the 2005. The Commission's 2005 status report of human rights and freedoms will be based on the following studies.

1. Research on sexual harassment at work;
2. Research on the status of the right to live in a safe environment;
3. Research on the right to adequate food;
4. Research on the status of violence and abuse against children;
5. Research on the status of the right to seek out and obtain information;

### **3.3 Major achievements**

Since 2003 the Commission has been conducting research and surveys through selecting national consultants on certain issues. This has the advantage for the Commission of attracting professional researchers and enables the NHRCM to deploy its human resources efficiently.

Public hearings of the Commission's annual "Human Rights Status Report" have become an important regular event. Public hearings are organised to consider comments, recommendations and observations from both state and non-government agencies. Academics have substantially improved their follow-up reports and the hearings gave impetus to many progressive ideas, helping to increase public confidence in the Commission.

The organization of investigations and inquiries within the framework of Human Rights Open Days in all provinces has been important in enabling assessment of the implementation of previous year's activities and is very significant for on-the-spot assessments of the current human rights situation.

## **4. Complaints handling and processing**

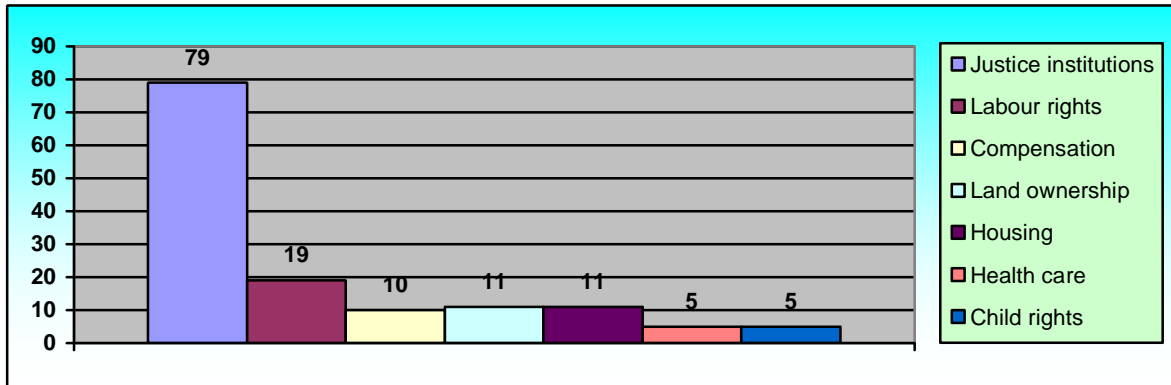
### **4.1 Complaints handling and human rights monitoring**

The Commission received a total of 162 complaints in 2004. Of these 162 complaints, 50 (30.9%) were admissible and were processed and resolved.

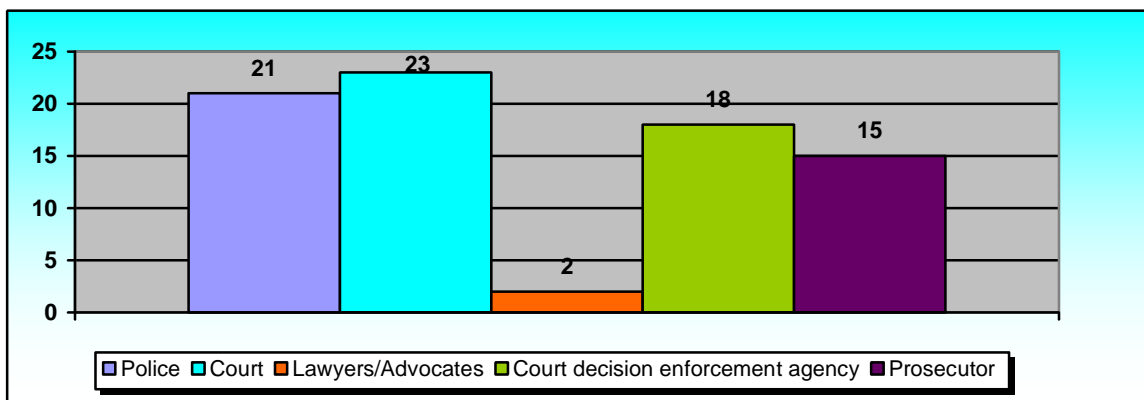
Of the total complaints received by the Commission 79 (48.8%) were related to justice institutions, of which 21 (26.6%) were against the police and 18 (22.8%) were about enforcing court judgments and unlawful criminal proceedings.



## Classifications of complaints received by the Commission



## Classification of complaints related to justice institutions



## 4.2 Major achievements

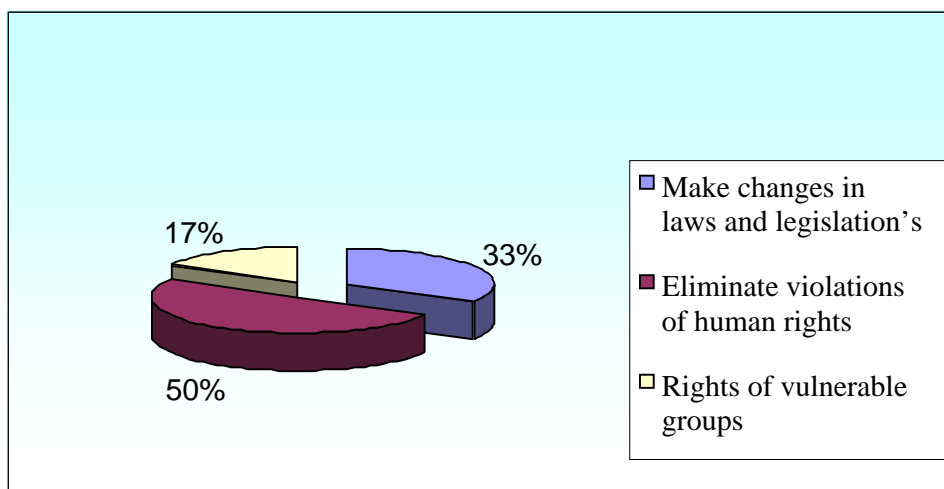
The Commission introduced a program to monitor complaints registration and control the resolution of complaints, which is an important advance for the complaints handling process and will provide an opportunity to oversee all complaints electronically and ensure timeliness.

## 5. Opinions, recommendations and demands

- As stated in the Law on the National Human Rights Commission of Mongolia, the Commission submitted its fourth annual report on status of human rights and freedoms in Mongolia to the State Great Khural (Parliament) of Mongolia in April 2004;

- Published international human rights conventions and treaties to which Mongolia is a party in the official “State Journal” of the Parliament of Mongolia;
- Submitted a proposal to the Parliament to amend the Law on the NHRCM, to be heard during its regular spring sessions;

### **Opinions, recommendations and demands issued in relation to investigations and studies done in 2004**



- As a result of examining the conformity of domestic laws and legislation with international human rights standards and with a view to having changes made to particular legislation, the Commission issued 5 official demands, 8 recommendations and 3 proposals to relevant organisations in order to restore human rights and freedoms and eliminate violations of human rights.

#### **5.1 Major achievements**

The publication of the international conventions and treaties to which Mongolia is a party in the official “State Journal” of the Parliament of Mongolia was an important achievement towards enforcing international treaties as domestic legislation in accordance with the Constitution of Mongolia Article 10(3).

#### **6. International cooperation**

- As part of the preparation process for hosting of the 10<sup>th</sup> Annual Meeting of the APF in Mongolia, the Commission organised meetings with Parliament, Government and related agencies and submitted proposals in this connection;
- The composition and regulations of the Commission’s ex-officio board were reviewed and the number and range of the new membership increased. In addition, sub-groups were established to work on specific human rights issues;
- NHRCM Commissioners and employees participated in the following international conferences, workshops and seminars:

- 1) The 60th session of the United Nations Human Rights Commission, 2004.4.13-18;
  - 2) The 8th annual meeting of the Asia-Pacific Forum of National Human Rights Institutions, 2004.2.16-18;
  - 3) The 12th annual workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, 2004.3.2-4
  - 4) The 9th annual meeting of the Asia-Pacific Forum of National Human Rights Institutions, 2004.9.14-17;
- With the objective of expanding cooperation with other national human rights institutions, the Commission officially invited an official visit by a delegation from the Australian Human Rights and Equal Opportunity Commission headed by the Hon. John von Doussa, September 7-12;
  - The Commission's Chief Commissioner and Commissioners organized 21 meetings with representatives of international organizations and made presentations to them about the Commission's operations and activities, further plans and the status of human rights and freedoms in Mongolia;
  - During 2004, the Commission actively cooperated and communicated with national institutions and international human rights organizations which have a working relationship with the NHRCM. The Commission worked hard to expanding its mutual cooperation with the APF, the Danish Centre for Human Rights, the Canadian Human Rights Foundation, Canada Fund in Mongolia, ILO, SIDA, and other human rights institutions;
  - Within the framework of the UN Capacity Development Project of the Commission two international consultants Mr. Peter Hosking and Mr. Brian Burdekin were appointed to work with the Commission.

## 6.1 Major achievements

Active participation in international seminars and conferences on human rights helped to upgrade and improve the competence and capacity of the commissioners and the staff, as well as to gain an in-depth and practical understanding of international practices and standards. This was of great importance for implementing those experiences in the everyday activities of the Commission.

Moreover, through active participation in international seminars and conferences the Commission strengthened and expanded its cooperation and relations with other national institutions and international human rights organizations.

## 7. Budget

In 2004 the NHRCM budget equaled to 61,635 USD and only 3.9 percent was allocated for operational costs. The state budget and expenditure are set out in the table below:

1 \$=1200¥

1	Expenditure	Approved budget		Percentage
		Tugrug (¥)	US dollar (\$)	
1	Basic wages, additional pay and awards	24,338,400	20,282	33%
2	Premiums of pension and benefit insurance	6,425,600	5,355	9.0%
3	Office stationary	2,325,000	1,938	3,1%
4	Fuel and car rent costs	9,482,300	7,902	13%

5	Communication and correspondence costs	5,065,000	4,221	6.9%
6	Expenses for official missions abroad	800,000	667	1,1%
7	Expenses for international cooperation activities/missions	4,086,000	3,405	6.0%
8	Human rights education and promotion	2,780,000	2,317	3.9%
9	Purchase of books	655,000	546	0,01%
10	Expenses for of foreign guests/visitors	2,840,000	2,367	3.9%
11	Food, transport and other bonus costs	433,500	361	0,01%
12	Purchase of equipments	1,500,000	1,250	2,0%
13	Premise rent costs	13,230,700	11,026	18%
	<b>Total</b>	<b>73,961,500</b>	<b>61,635</b>	<b>100%</b>

The Capacity Development project jointly implemented by the UNDP and OHCHR is making an important contribution in overcoming this financial problem. In addition, as mentioned earlier, the Commission was able to undertake number of activities with the financial assistance from the British Embassy in Ulaanbaatar and the Canada Fund/Mongolia.

### **3. REGULATION ON THE NATIONAL HUMAN RIGHTS COMMISSION'S EX-OFFICIO BOARD**

#### **One. General provisions**

- 1.1. National Human Rights Commission's ex-officio board (hereinafter referred to as "the Board") is aimed at assisting NHRC in exercising the powers vested by the law.
- 1.2. Activities of the Board shall be guided by Law on the National Human Rights Commission and other relevant laws and acts, Commission's official documents /guidelines/ and this regulation.
- 1.3. The Board consists of not less than 20 non-staff members including representatives from NHRC, Association of Attorneys /Advocates/, Trade Union Association, and human rights non-governmental organizations.
- 1.4. The Board shall be guided by such basic principles as the rule of law, protection of human rights, freedom and legal interests, justice and transparency.

#### **Two. Establishment of the Board.**

##### **Appointment and dismissal of its members.**

- 2.1. Members shall be discussed at the Commission's meeting one by one and appointed by Chief Commissioner for the term of 3 years upon the proposal of relevant NGO.
- 2.2. At its first meeting, Chairman and Secretary shall be appointed upon the proposal of Chief Commissioner.
- 2.3. Members shall be removed if they:
  - 2.3.1. voted or appointed to post of civil service.
  - 2.3.2. unable to perform his or her duties due to change of place of work and living.
  - 2.3.3. have requested to be removed considering that unable to perform the duties due to health condition or for other sound reasons.
  - 2.3.4. term of office is expired and not re-appointed.

#### **Three. Activities of the Board**

- 3.1. The Board may forward its opinion and recommendations on directions of the Commission's activities and measures to be taken.
- 3.2. Include certain measures in the Commission's annual and quarterly prepared work plan, conduct survey on human rights issues, if required.

3.3 Make a proposal on possible way of the Commission's collaboration between state organizations and NGOs.

3.4. Draft documents concerning human rights protection.

3.5. Some parts of activities to be implemented by the Commission in collaboration with NGOs which members belong to, on certain human rights issues may be done with involvement of the Board.

3.6. Review the implementation of the Commission's notices /formal/ and recommendations.

3.7. Give lessons during "Human Rights Open Days" and training and workshops conducted by the Commission, deliver speech, arrange meetings, carry out partial survey what is the situation of human rights in a organization as well as to be acquainted with the outcome of its activities.

3.8. Make a proposal and recommendations on Commission's investigation, survey, and human rights report.

3.9. Make advertisement of Commission's activities and human rights promotion among the public.

3.10. Participate in preparation /publishing, printing/ of books, brochure and manuals for human rights training and seminars.

#### **Four. Work procedure of the Board**

4.1. Based on its members' initiative, the Board shall work out annual and quarterly plan of actions in consistent with Commission's directives.

4.2. Agenda shall be approved by Chairman upon the proposal of its members.

4.3. Chairman shall chair meeting of members which takes place not less than once for quarter. Decision shall be made by a majority vote of the members.

4.4. Chairman shall make the efforts to ensure work performance of members and working groups, and implementation of the planned activities. Secretary is responsible for ensuring of preparation for meetings, making notes, reporting on the plan implementation, and managing chancellery of the Board as well.

4.5. Meeting is open to the public and its decision may be informed the public through mass media.

4.6. Based on the principle of the division of duties, several working groups may be established within the Board which is headed by managers. Matters concerning establishment and change shall be discussed at meeting of the Board.

4.7. Reports on inspection /or investigation/ and research work, and other statistical information shall be transferred to the Commission's chancellery and archive.

4.8. Board's annual work report and statistic shall be submitted to the Commission for deliberation.

## **Five. Financing of Board**

5.1. Source of funding of the Board's activities shall be reflected in the Commission's annual budget according to relevant rules and regulations.

5.2. A matter of incentive for Chairman, Secretary and members shall be discussed and decided at the Commission's meeting.

## **Six. Miscellaneous.**

6.1. Commission shall support to develop the Board's capacities in all possible way including various training and workshops to be attended by the members.

6.2. This regulation shall be effective on the day of its approval at meeting of the Commission's members.

6.3. Amendments shall be made at meeting of the Commission's members taking into account of Board's proposal.

#### **4. GUIDELINES OF “HUMAN RIGHTS OPEN DAYS” TO BE ORGANISED IN AIMAGS, IN THE CAPITAL CITY, SOUMS AND DISTRICT**

##### **One. General matters**

1. Human Rights Open Days (hereinafter referred to as the “Human Rights Open Days”) aims at implementing the National human rights programme and supporting the Commission by developing human rights knowledge and information; organizing training on human rights issues for the local administration, judges, prosecutors, police, public and private entities and NGOs; making a conclusion whether the decisions of government administration comply with the human rights principles; meeting with the citizens those rights have been violated and get acquainted with their complaints; as well as improving qualification and skills of local human rights ex-officio boards members and other human rights practitioners.
2. Human Rights Open Days shall be organized by the Commission and the Project management or with their active participation or by a team comprising of ex-officio board members in aimags and in the capital city, local authorized representatives and Governor’s offices of the aimags and capital city, NGOs, media representatives and human rights trainers.

##### **Two. Duration, organizations and individuals involved**

1. The length and place of the Human Rights Open Days are to be specified.
2. If such measures are organized in the center of aimags and capital city:
  - heads and their deputies and all staff of Governor’s office, departments and agencies concerned;
  - management and executive officers of courts, prosecutors, police, advocates and court decision implementing offices;
  - directors of economic entities and officers concerned;
  - soum Governors and their deputies, heads and the staff of other divisions;
  - press officers, correspondents of aimag FM, radio and TV;
  - officers of human rights NGOs;
  - management and the staff of health and cultural organizations;
  - Governors of bahg and khoroo;
3. If such events are organized in soums and remote districts of the capital city:
  - Chairman of soum hurals and Governors;
  - Deputy Governors, Secretary of hurals, Heads of Treasury and Heads of the staff;



- Officers of soum hurals and Governor's office and other divisions;
- Management and executive officers of district courts, prosecutors, and police;
- All staff of soum and district health and cultural organizations;
- Police officers of soums;
- Media employees;
- employees of NGOs;
- Governors of bahgs and khoros and their personnel;
- Personnel of public and private entities;
- Staff of tourist, holiday home and resort centers;
- Pupils and students;
- Citizens, herders, farmers and other private persons;

### **Three. Actions to be taken**

1. In the framework of Human Rights Open Days the following measures shall be organized.

#### **a) Meeting and get to know**

Chairman of soum and district khurals and Governors shall meet heads and members of human rights ex-officio boards and committees, representatives of NGOs, media, and employees of health and cultural organizations and economic entities if required; get acquainted with the human rights actions taken and exchange views and opinions with them as well as to provide them with the professional and methodical guidance.

#### **b) Receiving citizens**

Compliant officers, members of ex-officio boards and committees, Commission's members, and the local authorized representatives, if required shall receive the citizens whose rights are violated or to talk with them on human rights aspects in a special room and listen their complaints carefully. If possible, complaints are reviewed on the spot and a decision is made. Also, recommendations are given in regard how to act in the future.

#### **c) Field study**

- Study whether Resolutions of khural, decrees of Governor for the last 2 or 3 years and decisions of other departments and units are consistent with the human rights principles and standards. If violation exists, give recommendations for correction, and send a copy of statement of violation to the Commission for review if necessary.

- Visit detain and custody centers, place of administrative detain and sobering up stations to get acquainted with the circumstances and human rights situation of persons there and revise whether their rights violated or not in collaboration with prosecutor.
- Get acquainted with human rights activities in some organizations.

#### **d) Training**

Human rights training will be organized by certificated trainers according to specific programme. It is very important to conduct training based on group and participatory methods and diversify by work and profession of the participants. For example: training for employees of khural and administration, for police officers, for justices, prosecutors, notaries and court decision implementing officers or training for media and NGOs or economic entities and health organization etc.

Besides general human rights aspects, violations that may arise in activities of the public administration, economic entities and legal bodies, particularly, issues concerning violations in labor relations and in criminal procedure may be reflected in the training programme.

#### **e) Inquiry**

Inquiries on some human rights aspects may be carried out among the population to a certain extent in aimags, soums and districts.

#### **f) Human rights advertising**

Human rights advertising activities may be organized in the following way in collaboration with legal bodies and NGOs:

- Advertising /agitation, lecture, slideshow etc/ within one or several organizations or to match with art and cultural events at theatre and cultural centers.
- Advertising on the wireless or loudspeaker at market place or mass shows.
- Interview for TV, radio and FM in settlement area and television and radio programme on concrete human rights issues.
- Interview for local newspapers and journals and publication of articles concerning human rights aspects.
- Dissemination of books, brochures, placards and folded posters

#### **Four. Report on Human Rights Open Days**

1. Work results during Human Rights Open Days are discussed at soums, districts and bag level and give recommendations on further actions.

2. If necessary, it will be reported on press conference in collaboration with media or at enlarged session of Governor's Council of soums and districts.
3. Monitoring over the implementation of national human rights action plan, mid-term strategic plan and their outcome may be undertaken and the result may be reported to Council session of aimag and capital city with recommendations.
4. Consolidated report of the work implemented during Human Rights Open Days is submitted to Human rights council and committees and make notes.
5. Documents and reports shall be given to the Commission's archive.

## **NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA**

Approved at the Meeting of National Human Rights  
Commission's members on 11 March 2002

## **5. TERMS OF REFERENCE FOR THE NATIONAL HUMAN RIGHTS COMMISSION'S AUTHORIZED REPRESENTATIVES IN AIMAGS**

### **One. General provisions**

- 1.1 The National Human Rights Commission's authorized representatives in aimags /hereinafter referred to as the "Authorized representatives" are the entrusted staff to perform the duties empowered and delegated by the Commission.
- 1.2 The chief aim of the authorized representatives is to assist in and support the Commission's nation-wide activities by conducting a survey and draw a conclusion on the implementation of the provisions of human rights and freedom confirmed by Constitution of Mongolia and international agreements as well as to conduct training and workshops and advertising in their respective aimags. /promotion of human rights/
- 1.3 Constitution of Mongolia, other relevant laws and acts and this regulation shall guide the activities of the authorized representatives. In their activities, the authorized representatives shall keep a secret of state, organization, and individuals.

### **Two. Framework of activities of authorized representatives**

Authorized representatives shall assist in and support the following Commission's activities in local areas:

- 2.1. Conduct a survey on human rights issues in the administrative and territorial units, in one or a number of specialized or subordinated organizations, entities and among the population to a certain extent and report on the results;
- 2.2. Conduct training and advertisement of human rights international treaties /instruments/, laws and acts and Commission's overall activities among the public at their own initiative or according to the Commission's directives and instructions.
- 2.3 Create /set up/ database of human rights violations in their respective aimags and insert the data to the integrated network.
- 2.4. Receive complaints concerning human rights violations and give advices, if necessary to submit the petitions and complaints to the Commission make efforts to reconcile disputing parties or put forward a proposal to make to carry out inspection /investigation/ or appoint experts.
- 2.5. Review the implementation of the requirement and recommendations of the Commission and its members. Submit the results to the Commission.

### **Three. Rights and duties of the Authorized representative**

Authorized representatives have the following rights and duties:

***Human Rights & Freedoms Status Report 2005 NHRCM***

- 3.1. Undertake a survey on human rights issues, collection of human rights related information and facts and consolidate;
- 3.2. Arrange meeting with complainants and other relevant persons; make organization and official to provide with an explanation in written, required evidence, official letter and information free of charge as well get acquainted on the spot with the investigation of complaints.
- 3.3. Make a proposal to the Commission on issues of reconcile the parties, investigation of complaints and appointment of experts.
- 3.4. Study or get acquainted with the implementation of the requirements and recommendations of the Commission on certain issues of violation of human rights and freedom or violations that may occur.
- 3.5. Provide the Commission with information and report on the work of citizen's applications and complaints in fixed term. /in due time or on time/
- 3.6. Report the Commission on its activities and research work. Submit its proposal on human rights violations on each occasion. Annual and semi-annual reports should be delivered to the Commission.
- 3.7. According to the Commission's directives, authorized representatives shall act in collaboration with local Hural (parliament) and its Presidium, Human rights protection units in the local administration and other local administrative bodies and NOGs.
- 3.8. Authorized representatives shall have annual and quarterly worked out plan of actions, and annually and semi-annually report to the Commission on its activities.

#### **Four. Miscellaneous.**

- 4.1. Authorized representatives shall have ID "National Human Rights Commission's authorized representative in aimags".
- 4.2. The term of authorized representatives is 2 year and it may be extended for another half or one year if required.
- 4.3. Some equipment may be provided by the Commission for authorized representatives for office use.

THE NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

## **6. TERMS OF REFERENCE PUBLIC INQUIRY ON “TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT”**

### **1. Justification:**

- The National Human Rights Commission of Mongolia (NHRCM) is an institution mandated with the promotion and protection of human rights and charged with monitoring the implementation of the human rights and freedoms provisions in the Constitution of Mongolia, laws and the international treaties to which Mongolia is a state party.
- The Constitution of Mongolia and other laws and legal acts state that no one shall be subject to torture, inhuman, cruel or degrading treatment and practices of coercion, use of force and compel for ones own testimony shall be legally prohibited.
- Mongolia became a state party to the International Covenant on Civil and Political Rights in 1976, to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2000 and to the other relevant international instruments and took an obligation for its implementation. The Criminal Proceedings Law of Mongolia considers that no person shall be subjected to torture, cruel and other inhuman treatment. Therefore, the rights to investigate and make supervision for implementation of the provisions of the Constitution, laws and international treaties concerning rights not to be subject to torture falls under the full authority of the NHRCM.

### **2. Needs and purpose:**

- Despite the fact that Mongolia is a party to CAT and torture and other cruel, inhuman treatment are prohibited by the Constitution and the Criminal Code and Criminal Procedure Code of Mongolia, the NHRCM and other organizations had received complaints about acts of torture, use of force and coercion in getting a testimony, confession, unlawful accusations and convictions.
- Conditions in pre-trial detention centers and prison facilities continue to create grounds for torture.
- There are a number of allegations, reports, discussions and complaints that have been released in recent years through the mass media about forced confessions and convictions imposed during crime records and prosecution processes by means of torture and inhuman treatment.
- There are allegations suggesting use of torture, extorted confessions that ultimately led to sentences in relation to severe crimes.
- Based on the findings of an investigation by the State Prosecutor General’s Office in “Gants Khudag” detention center in 2002, the Standing Committee on Legal Affairs of the Parliament charged the related institutions to take necessary actions with regard to existing use of force, coercion, and torture for getting testimony and confessions.
- In some cases court decisions were reversed following the findings of investigations by the State Prosecutor General’s Office which revealed proxy bullying of suspects and accused by other inmates to have confessions in grave crimes.
- Therefore, the purpose of the public inquiry is to determine factors and conditions of prevalence of torture, inhuman, cruel or degrading treatment in some crime record, prosecution offices, and law enforcement institutions; to reveal reasons and grounds that affect conditions of torture; assess and evaluate working methods of combating torture; to

identify effective prevention measures; to raise public awareness; and to create proper knowledge and attitude for the law enforcement officials.

### **3. Scope and timing:**

- The public inquiry will begin in January 2005. In December 2005 it will end and report, comments and recommendations of the inquiry will be published.
- The public inquiry will incorporate the capital city, Orkhon, Darkhan-Uul, Tuv, Dornod and Huvsgul aimags.

### **4. Activities:**

- Comparative legal analysis of national legislation including rules and regulations followed by law enforcement agencies if they are in conformity with the international standards; and if they are able to serve as effective prevention from torture;
- Consultative meetings with judges, prosecutors, lawyers and non-governmental organizations to present them about the public inquiry and take into observation their comments;
- Analysis of complaints received and processed by the Investigation Department of the State Prosecutor General, the Inspection Board of the General Department of Police and some prosecution offices;
- Investigation of conditions in pre-trial detention centers and prisons;
- Investigation on conditions and activities of mental care institutions, alcoholism therapy centers and other related institutions;
- Examination of accountability mechanism and legal regulation concerning government officials convicted of torture and cruel, inhuman treatment;
- Analysis of statistics, reports and court cases related to torture;
- Survey among inmates of pre-detention centers concerning treatments of torture;
- Accept public submissions of complaints and information related to torture and conduct investigation and analysis accordingly;
- Public discussions and assessments on some citizens submissions on torture;
- In some certain cases of torture take necessary actions in approaching some officials guilty of use of torture to take responsibility.

### **5. Outcomes:**

- Prepare a comprehensive report on the public inquiry, discuss it in the commissioners enlarged session and based on this produce a follow-up document;
- Send the report and related findings and recommendations of the report to related parties and evaluate its implementation;
- Organize public hearing on the inquiry report and recommendations with the government institutions' and non-government organizations' officials;
- Publish materials related with the public inquiry and promote them through mass media

## 7. No. 970 DECISION OF BAYANZURKH DISTRICT COURT

20 October 2004

No. 970

Ulaanbaatar city

### IN THE NAME OF MONGOLIA

The civil judicial session was chaired by General Justice Yo. Tsogtzandan and comprised of Justices D. Tuvshintor and D. Chuluunkhuu and Secretary E. Uyangasaikhan. Also, D.Sodnomdarjaa, citizens' representative, B. Dalaijamts, Commissioner of NHRCM and authorized representative of the claimant, and B. Nyamdorj, Representative of Treasury department of Ministry of Finance and Economy and Representative of the defendant were participated in the session. The session examined NHRC's claim to pay MNT 53,699,225 by Ministry of Finance and Economy and **SETTLED:**

**Claimant:** Buushid DALAIJAMTS, authorized representative of Ch.Erdene-Ochir was born in 1942, in Yaruu sum, Zavkhan aimag, Male, Lawyer, lives in Sukhbaatar district, Apt #9, No.65, NHRC member's ID No. 161:

The National Human Rights Commission is participating in the judicial session as the authorized representative upon his request. This is the reason why NHRC has made the claim to the district court. Erdene-Ochir was arrested having suspected on murder on 3 January 1996 and has been imprisoned totally for 6 years and 8 months and 23 days. However, the case was dismissed by Supreme Court's Criminal Appellation Court at its session on 25 September 2002 and then he was released.

During the imprisonment, accusations were made by prosecutor's office for 6 times and he was sentenced by a court for capital punishment for 3 times.

From the very beginning, he noticed the legal bodies that he had no implication in the crime. However, he has been imprisoned for almost 7 years and it has caused lots of material and non-material damages to him and his family due to hasty decision of the court. Damages were calculated based on the following:

- 1) Erdene-Ochir was imprisoned for 6 years, 8 months and 23 days. If he worked during this period of time, he would have earned MNT 1,610,625 based on minimal wage rate.
- 2) He had 185 heads of livestock before imprisonment. Experts calculated that income from livestock breeding and other income from livestock husbandry would be MNT 20,988,600.
- 3) Many advocates were hired during this time to defend the accused, but reference of one advocate is available and fee is MNT 500,000.
- 4) In connection with the crime, his family members and close relatives traveled by plane and cars for 30 times from and to Zavkhan and Ulaanbaatar city. Total travel cost is MNT 600,000 based on domestic car hiring rate.



- 5) During the imprisonment, he carried crushing burden by court sentences for capital punishment for 3 times. So MNT 29,000,000 is claimed for these health and physiological damages to him.
- 6) Also MNT 1,000,000 will be claimed for restoring his name and dignity because he was announced through mass media as murderer throughout the country.

The claimant noticed that restoring violated rights of Erdene-Ochir is inextricably linked with the provision to restore human rights as declared in the Constitution and has requested the court not to subtract any monies from the claimed amount.

**Defendant:** NYAMDORJ Batgerel was born in 1976, in Khovd aimag, male, lawyer and lives in Bayangol District, VIII khoroo, 1-6, Specialist in Public administration department of Ministry of Finance and Economy. ID No. 101:

We can not accept the requirement of the claim. As stated in the claim the Treasury department of the Ministry of Finance is as the defendant. The Treasury has its own budget for its officers and staff members. It means that the claimed amount will be provided from the budget for officers and staff members that of course violates relevant laws and acts.

According to Code of Criminal Procedure, an official will be responsible for the damages caused for others. We do not accept MNT 1,610,625 based on minimal wage rate. His domestic animals were not covered by census of livestock. There is no evidence to prove payment for advocacy fee, travel from and to Ulaanbaatar and Zavkhan. The documents available do not meet the requirement. Also, health damages were not proved. In regard to the newspaper articles, the person who has written this should be responsible for this. We consider there is no reason to pay the claimed amount from the budget.

Based on analysis of evidence of the case, the court **ESTABLISHED:**

Dambiin Purevdorj was killed by others on 31 December 1995 at a place named as “Bor belcher” in Erdenekhairkhan soum, Zavkhan aimag. Having suspected on this case, Chojiljavyn Erdene-Ochir was imprisoned for 6 years, 8 months and 23 days, of which 4 years 2 months and 7 days in prison. During this time, indictment was made by prosecutor’s office for 6 times and transferred to court, of which 3 capital punishment and 2 imprisonment and once the case was returned for additional investigation. According to Article 13.2, Article 208.1,2, Article 300.1, and Article 223.1.2 of the Code of Criminal Procedure, the case was dismissed by Supreme Court’s Criminal appealation court at its session on 25 September 2002.

According to Article 396.6 of the Code of Criminal Procedure, claim to be made to a court of area where the claimant lives. Based on this provision of Code of Criminal Procedure, NHRC has made a claim representing Erdene-Ochir to court session.

There is well-founded basis for Ministry of Finance and Economy /Treasury Department/ to become as defendant according to Article 389.1 and Article 390.2 of Code of Criminal Procedure. Due to imprisonment without legal basis, the basic rights such as indicated in Article 16.4 of Constitution “right to freely choose job and profession; to have work, to be provided with favorable condition; obtain salary and wages, have vacation; and to engage in business”; Article 13 “right to be inviolable”.

So, the court considers that some parts of the claim which are proved by the evidence should be paid by the defendant. According to Article 390.1.1 of Code of Criminal Procedure and

government resolutions on minimal wage rate, MNT 1,610,625 should be paid as the income would have earned during the imprisonment.

Payment of MNT 400,000 for legal assistance as advocacy fee is proved by court judgment and reference by Lamjav, Advocate, in accordance with Article 390.1.5 of Code of Criminal Procedure. Though, MNT 500,000 was claimed to be paid as advocacy fee but payment for MNT 100,000 was not proved. MNT 2,900,000 was claimed for mental and health damages. Article 391.2 of Code of Criminal Procedure says that “amount of non-material damages should be defined according to Civil Law considering the circumstances of the case” and Article 331.3 “a claim to be paid in cash for mental damages is made in accordance with Code of Civil Procedure”.

Thus, MNT 16.0 million should be paid for the mental damages considering the circumstances of the case, duration of imprisonment and prison condition. Though there is no evidence of health damage, it is right to subtract 13.0 million from the claimed amount.

Amount of MNT 9,205,000 was claimed for number of livestock which he or his family would have now, and MNT 11,783,600 for the income from the livestock productivity during these years. Judging from the evidence, 185 heads of livestock of Erdene-Ochir were covered by census of livestock in 1995. However, none of them has been covered by census of livestock since 1996. It is explained that some of livestock were sold to cover the expenses for the case /advocacy fee etc/ and they were unable to keep their livestock. There is no basis to pay MNT 20,988,600 as it is not proved.

Payment for MNT 600,000 for travel costs from and to Zavkhan and Ulaanbaatar not proved so that it is dismissed. The court composition deems to pay MNT 18,010,625 of MNT 53,699,225 and dismiss MNT 35,688,600 from the claimed amount.

Based on Article 115.2.2, Article 116.1 and Article 118.1 of Code of Civil Procedure, the court **RESOLVES:**

- 1) Pay MNT 18,010,625 to Erdene-Ochir by Treasury Department of Ministry of Finance in accordance with Article 497.1 of Civil Law.
- 2) Dismiss MNT 35,688,600 from the claimed amount.
- 3) Claimant should be exempted from stamp duties in accordance with Article 18.7 of Law on Stamp Duties and Article 57.2 of Code of Civil Procedure.
- 4) If parties do not agree with the decision, they may complain within 14 days for filling cassational appeal, within 30 days for reopening the case in the exercise of supervisory power.

**CHAIR  
JUSTICES**

**TSOGTZANDAN  
D.TUVSHINTOR  
D.CHULUUNKHUU**