



**THE NATIONAL HUMAN RIGHTS COMMISSION
OF MONGOLIA**

**REPORT ON HUMAN RIGHTS AND
FREEDOMS IN MONGOLIA
2007**

**Ulaanbaatar city
2008**

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OF MONGOLIA

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Chief Commissioner

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Commissioner

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Mr. Dashdorj Jadamba



Commissioner

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Ms. Oyunchimeg Purev

Esteemed Reader,

The National Human Rights Commission of Mongolia (NHRCMM) has submitted its seventh Report on the Situation of Human Rights and Freedoms in Mongolia to the Parliament (State Great Hural) of Mongolia under the Law on the NHRCM.

The report consists of three chapters and six themes based on observations and surveys conducted by and complaints and information submitted to the NHRCM in 2007 and other sources of different institutions.

A specific feature of the 2008 report is that it assesses the implementation of the recommendations made in the preceding reports issued by the NHRCM, evaluates progresses made and shortcomings faced in the past years in the field of human rights, and considers the overall realization of constitutionally guaranteed human rights and freedoms.

Moreover, the Commission believes that the report is of importance as it includes reporting of the human rights agreements, worst forms of child labor, rights of victims and Mongolian citizens residing and working in the Republic of Korea.

A summary of activities conducted by the NHRCM in 2007 to fulfill its legal obligations to monitor, protect, and promote the realization of human rights and freedoms is attached to the report.

LIST OF ABBREVIATIONS

UNCERD	UN Committee on the Elimination of Racial Discrimination
ACA	Anti-Corruption Agency
MRPAM	Mineral Resource and Petroleum Authority of Mongolia
MoE	Ministry of Environment
MoECS	Ministry of Education, Culture, and Science
ECD	Education and Culture Department
BGD	Bayangol District
BZD	Bayanzurkh District
PRC	People's Republic of China
ROK	Republic of Korea
OFCN	Office of Foreign Citizens and Naturalization
NCTDS	National Center of Trauma and Disorder Studies
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
TPP	Thermal Power Plant
DRO	Diplomatic Representative Office
WHO	World Health Organization
OP	Office of the President
OG	Office of the Governor
GPD	General Police Department
CRH	Citizens' Representatives' Hural
LDRH	Leaders of the Citizens' Representatives Hural
MNPRT	Mongolian National Public Radio and Television
NUM	National University of Mongolia
CMTU	Confederation of Mongolian Trade Unions
GAME	General Association of Mongolian Employers
VTPC	Vocational Training and Production Center
CSC	Civil Service Council
MFE	Ministry of Fuel and Energy
NGO	Non-Governmental Organization
UN	United Nations
UNDP	United Nations Development Fund
MoSSL	Ministry of Social Safety and Labor
CCPD	Capital City Police Department
CCSID	Capital City Specialized Inspection Department
ILO	International Labor Organization
GED	General Emergency Department
PRD	Public Relations Division
SGH	State Great Hural (Parliament of Mongolia)
SC	Supreme Court
SPIA	State Specialized Inspection Agency
SID	State Investigation Department
RCS	Red Cross Society

NSO	National Statistical Office
GDNT	General Department of National Taxation
NRTA	National Radio and Television Authority
GEC	General Election Committee
NCCPH	National Center for Psychological Health
SHD	Songinohairhan District
SBD	Sukhbaatar District
GDCDE	General Department for Court Decision Enforcement
CDED	Court Decision Enforcement Division
AS	Academy of Sciences
HRC	UN Human Rights Committee
UNCRC	UN Committee on Rights of the Child
NHRC	National Human Rights Commission of Mongolia
MoJHA	Ministry of Justice and Home Affairs
MoFA	Ministry of Food and Agriculture
GDBP	General Department for Border Protection
NBC	National Board for Children
NCCDS	National Center for Contagious Disease Studies
Agr	Agriculture
HUD	Khan-Uul District
NAOD	National Association of Organizations of the Disabled
HDI	Human Development Index
ECOSOC	UN Economic and Social Council
UNCAT	UN Committee Against Torture
CEDAW	Committee on the Elimination of Discrimination Against Women
UNCESCR	UN Committee on Economic, Social and Cultural Rights
Emb	Embassy
MoH	Ministry of Health
CPD	Criminal Police Department
UHS	University of Health Science

CHAPTER ONE

HUMAN RIGHTS AND FREEDOMS

- Constitutionally Guaranteed Rights
- Reporting of Human Rights Treaties

1. Constitutionally Guaranteed Rights

1.1. Right to Life

Article 16.1 of the Constitution (1992) proclaims that a citizen of Mongolia has the right to life. Deprivation of human life is strictly prohibited unless capital punishment, constituted by the Criminal Code for the most serious crimes, is imposed by a competent court as its final decision. Mongolia is one of the 74 countries that haven't abolished capital punishment yet and has a tradition of determining subjects whom this punishment isn't applicable to under the Criminal Code and following this procedure. Historically, the country could abolish capital punishment for about 10 months as per decree No. 93 issued by the Presidium of the People's Great Hural, People's Republic of Mongolia, in 1953, that states "... further application of capital punishment shall be deemed unnecessary in peacetime" when it adopted its Criminal Code in 1926, 1929, 1934, 1942, 1961, and 1987 (revised version) and 2002 respectively.

Mongolia applies the capital punishment under Article 6.2 of the UN International Covenant on Civil and Political Rights that states "In countries which have not abolished the capital punishment, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court." According to the survey¹ courts have sentenced 806 persons to capital punishment in the past 40 years (1965-2005). As reported in the recent two years, 24 and 26 persons have been sentenced in 2006 and 2007 respectively.

As a highly risky punishment capital punishment should be imposed by a court provided that the guilt is inevitably determined by evidence and the imposed punishment be carried out according to appropriate procedures and otherwise, it can't be rectified at all and a special situation where the fate of the person is decided completely arises. Therefore, it is highly important to take into account this situation often in criminal procedure.

... A clear example of this is the fact that a court sentenced two of five accused in the so-called "Food Land" case to capital punishment in two trials and after the higher court had rescinded this punishment and returned the case for investigation and review, the accused were acquitted and damage inflicted was compensated by the state ...

One response from the Parliament and Government to the satisfaction of human rights and freedoms is provision "If capital punishment is doubtful according to a court decision, procedure for postponing its enforcement for a 3-year period and conducting a

¹ Report on Assessment of Capital Punishment and Human Rights, Amnesty International Mongolia, 2006, pp 10-11

final review of the punishment shall be set by law” and Article 2.1.1.1 “To intent to maintain the provision of the Criminal Code that prohibits the application of capital punishment for women, minors, and men over the age of 60 as well as reduce types of offenses subject to capital punishment and further abolish it” set forth in the National Human Rights Action Program (NHRAP) of Mongolia. However, any positive action hasn’t been taken yet to accomplish the above objective of the Program.

It is important to adopt the Second Optional Protocol to the International Covenant on Civil and Political Rights to accomplish the objective to further abolish capital punishment. A recommendation made at the 16th UN session in 1982 states “... member countries ... must limit the application of capital punishment even for the most serious crimes.” Article 6.4 of the International Covenant on Civil and Political Rights provides “Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases”.

Article 53.3 of the Criminal Code that states “An entity sentenced to death shall be entitled to request the President of Mongolia to grant him/her an amnesty. In the case of an amnesty capital punishment shall be substituted by 30-year imprisonment” is consistent with the Covenant.

Whether to grant pardon to a person sentenced to death is regulated by “Procedure for Reviewing a Request for Pardon for the Convict” adopted by decree 156 of the President of Mongolia in 2002 and this decree falls into the state secret category under Article 5.5 of the Law on State Secret (1995), Article 1.55 of the Law on Adoption of the List of State Secret (2004). Due to state secret categories how capital punishment is executed, what happens to the corpse, and how he/she is excluded from the civil registration is still unclear and this leads to suspicion, speculation, and rumours among citizens about execution of the sentence.

Article 331.1 of the Criminal Procedure Code (2002) that states “A court shall allow a convict sentenced to death to meet a relative once immediately following the completion of the trial” doesn’t enable the family members of the convicted to know the date and place of the execution of the punishment and leads to further state punishment of the corpse of the person already received a sentence appropriate for his/her wrongdoing with “his/her life”. UN Special Rapporteur on Torture Manfred Nowak who worked in our country in 2005 stressed in his report that the confidentiality related to capital punishment execution date and refusal to transfer the corpse of the convicted for a funeral lead to intimidation through psychological pressure for the family members and inhuman treatment and this violates Article 7 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As a wait for execution of capital punishment is long the convict is most likely to be subject to torture in this period.

Pursuant to Article 53.2 of the Criminal Code “Capital punishment shall be executed by shooting.” Although this is consistent with Article 9 of the UN Measures to Ensure the

Protection of the Rights of Persons Sentenced to Death “In the event capital punishment is executed it should be done so causing the least possible suffering to the convict,” the NHRCM believes that some confidentiality of the capital punishment execution procedure should be made transparent.

1.2. Right to Healthy and Safe Environment and Protection from Environmental Pollution and Ecological Imbalance

Air, water, and soil pollution, its negative impacts on the population, and harms of ecological imbalance were referred to and specific recommendations were made in the 2004 Report on Human Rights and Freedoms in Mongolia. Accordingly, the Parliament not only amended the environmental protection laws but also adopted the Law on Household and Industrial Waste (2003)

Article 2.4.4.1 of the National Human Rights Action Program sets objective “Actions shall be taken to reduce environmental pollution, maintain an acceptable level of pollution, ensure safety and hygienic requirements of food, drinking water, drugs, and essential consumer goods, regularly improve inspection and analyses that prevent air and water pollution in rural areas, and make monitoring better and more effective in this respect.” In order to accomplish this objective the Government has adopted a number of programs at the national and sectoral levels and taken measures to increase public participation in reducing and preventing air and water pollution, revise some quality and safety standards of food, drinking water, and drugs, and improve research, monitoring, and inspection.

Furthermore, the NHRCM organized a national forum on the right to a healthy and safe environment in cooperation with the Office of the President under the patronage of the President of Mongolia and implementation of recommendations made at the forum stands at 84.5 percent.

Air Pollution The tolerable amount of substance dominating in air quality standards is at the acceptable level in Ulaanbaatar and aimags/provinces other than Darkhan-Uul. The air is being polluted in the capital by thermal power plants, incomplete oxide of coal used by households not connected to the central heating system, smog from automobiles and other machinery, other sources during production and service, capital city soil loosening, fine dust, and large amount of dust from open garbage.

Measures such as promotion of smokless stove and pressed fuel production, expansion of housing projects, and implementation of the Green Wall Program to reduce air pollution on which significant funds are expended have been taken and however, the outcome is absolutely inadequate. 120, 418 automobiles registered nationwide in 2004 have risen by 41,753 or 34.5 percent in 2007 and 67,361 automobiles registered in Ulaanbaatar in 2004 by 25,345 or 37.6 percent in 2007 respectively.

Automobiles²

№	Automobile type	Number of automobiles						Percentage in national sum
		Nationwide			Ulaanbaatar			
		2004	2007	Increase in percentage	2004	2007	Increase/ decline in percentage	
1	Sedan	79 691	110 190	32,2	49 123	69 502	41,5	63,09
2	Public bus	10 645	13 037	22,5	6 553	6 440	- 1,7	49,4
3	Truck	25 430	33 677	32,4	9 637	14 263	47,7	42,4
4	Special purpose	4 652	5 125	10,2	2 027	2 489	23,3	45,7
	Total	120 418	161 991	34,5	67 341	92 706	37,6	57,2

It is estimated that 60 000 automobiles in traffic per day in the capital consume 600 tons of gasoline and emit 390 tons of nitrous oxide and 120 tons of lead.

An abrupt increase in the number of automobiles and substantial increase in traffic density have the following negative consequences.

- Air pollution exceeds the permissible amount;
- Traffic safety becomes critical;
- Imminent risks and dangers face human life and health.

Article 8.1 of the Law on Air (1995) “A citizen, business entity, and organization shall lead the specialized inspection unit to draw a conclusion and obtain a permit from the soum/sub-province or district Governor to run a business that releases air pollutants and has a physical toxicity and uses ground sources” and Article 8.3 “If it is inevitable that pollutants whose tolerable amount isn’t determined by standards yet will be released into the air and have a physical toxicity, the state administrative central organ in charge of environmental and health issues may jointly issue a temporary permit taking into account the characteristics, amount, and effects of the pollutants on human health and environment” aren’t enforced in some cases.

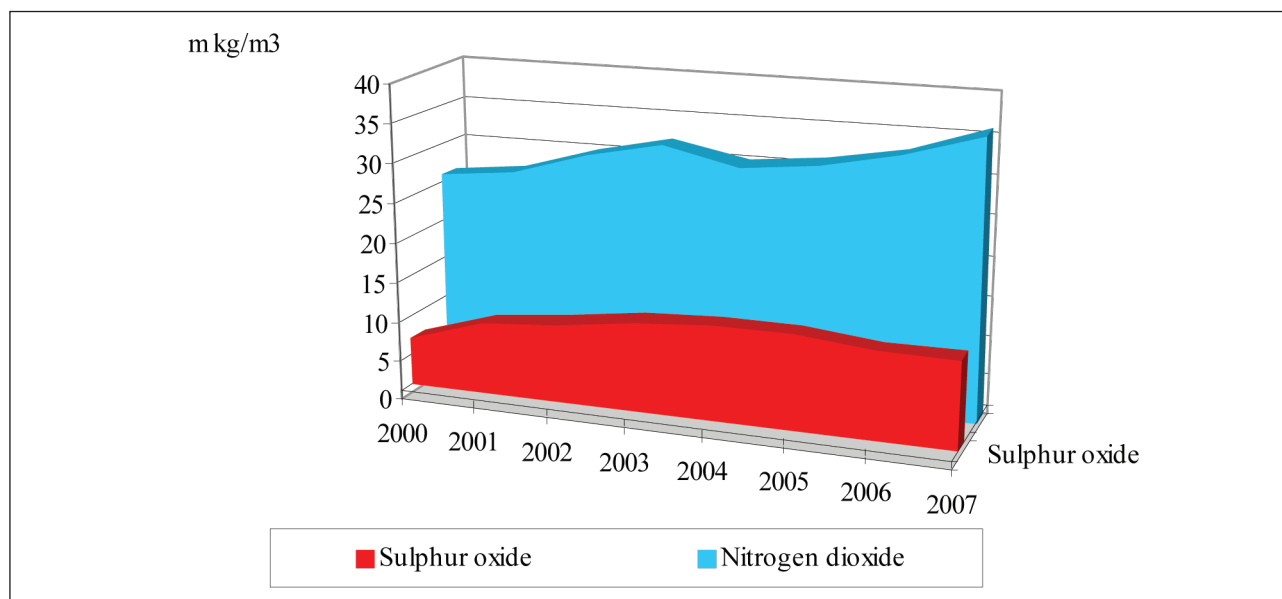
... For instance, a company X owned by a citizen of the (People’s Republic of China) PRC citizen Khu-jirbulan, Bayanzurkh District, reprocessed used automobile oil without any permit and poisoned some citizens ...

Although Ulaanbaatar takes up a miniscule part or 0.03 percent of the country, it is inhabited by one third of the total population and electricity and heat industry is concentrated therein and thus, there is high density of smoke and toxic substances being released into the air. In addition, air pollution rapidly increases in Ulaanbaatar between October and March

² General Records of the Automobile Inspection and Census of Mongolia, 2004, Report of the National Statistics Office, December 2007.

and this becomes more evident year by year. The sulphur dioxide content is twice-3 times as much as that in other areas in the capital city in the downtown and ger (felt-covered nomadic dwelling) district areas located in relatively lower areas and that of nitrogen dioxide adjacent to the main road and western crossroads respectively.

Four stationary air quality inspection observers operated in Ulaanbaatar and took and analyzed average daily samples of sulphur oxide and nitrogen dioxide and determined the air quality of the capital city.

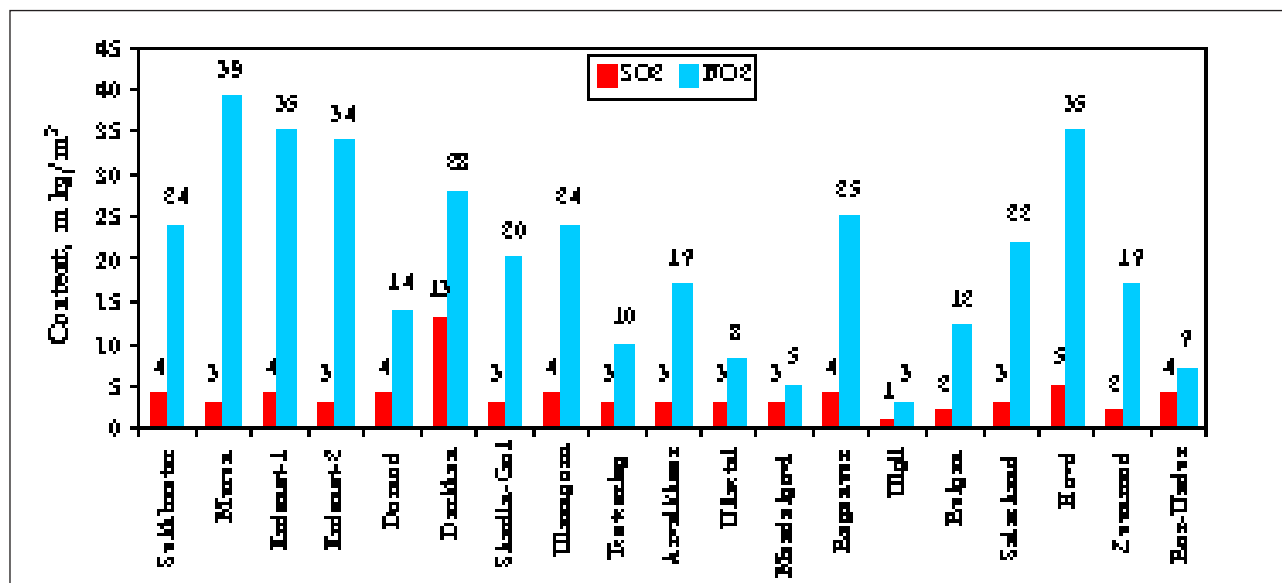


Whereas the number of ger district households was 92,000 in 2003, it increased up to 142,300 in 2007 by 50,300 households or 54.7 percent. Over 140,000 ger district households consume about 650,000 tons of coal and emit approximately 21,600 tons of toxic substances per year and over 800 low-pressure stoves consume about 1,300,000 tons of coal and emit 45,000 tons of toxic substances per year. About 221,100 tons of toxic substances in total including these ones plus those emitting from automobile smoke are released into the air. In addition, it worth mentioning that a considerable amount of toxic substances are emitted from other sources.

The report on assessment “costs of harms inflicted on the society due to failure to address the air pollution issue in Ulaanbaatar and efficiency of appropriate solutions and public participation” conducted in 2006 states “The Central Laboratory for Environmental Analysis concluded that 144,600 tons of pollutants are released into the air per year in Ulaanbaatar and automobiles and other mobile sources make up 39.3 percent thereof or 58,800 tons.”

Air quality monitoring was carried out by 19 stationary observers in 17 urban areas other than Ulaanbaatar and they determined sulphur oxide and nitrogen dioxide content of the air by taking single samples (8 am and 1 and 7 pm).³

³ Air Quality Situation 2006-2007



The average annual nitrogen oxide content of the air was 2-13 m kg/m³ in 2007 and Darkhan-Uul aimag had the highest one or 461 m kg/m³. The average annual nitrogen dioxide content was 5-39 m kg/m³ and Darkhan-Uul had the highest one or 123 m kg/m³ exceeding the tolerable amount by air quality standards 5 times altogether. The basic greenhouse gas content in our country has constantly increased and increased by 7 percent in the past 15-year period.

The number of illnesses caused by air pollution has increased year by year and total funds being expended also continue to rise. According to the estimates of researchers a total of 90,700 persons contracted respiratory diseases nationwide in 2005 and about Tg 4.8 billion (a togrog is the Mongolian national currency) were expended on the treatment of patients 42.2 percent or Tg 2.4 billion out of which were expended on the treatment of 36,400 patients.⁴

Soil Contamination. Soil is a unique system that endures regardless of other conditions with the exception of external factors and is capable of absorbing pollutants released and permeated into it. Soil pollutants in urban areas include toxic substances, smoke, smog smoke, fine ash, and dust released into the air, and waste and contaminated liquid. A contaminant that pollutes Ulaanbaatar most is solid waste. Although new methods of sorting out waste have been introduced in the recent years it is common for citizens to dispose of garbage outdoors. According to soil and air pollution assessment results whereas 67 percent of households in ger districts, Ulaanbaatar, have sub-standard rest rooms, 34.5 percent don't have rest rooms or wastewater holes at all.

The 2004 Report on Human Rights and Freedoms in Mongolia "Garbage and waste disposed of on non-designated sites cover thousands of hectares of land and pollute land resources and environment. Until now, there has been no environment-friendly

⁴ Costs of harms inflicted on the society due to failure to address the air pollution issue in Ulaanbaatar and efficiency of appropriate solutions and public participation, 2006

dumpsite that meets international standards in the country. Soil contamination has impacts on public health in major cities and this becomes one of the concerns. Soil is polluted with colon bacillus most in terms of soil contamination caused by bacteria. The average lead content of the soil is 49.92 mg/kg or 2.4 times higher than the acceptable amount and average zinc content is 145.9 mg/kg or 1.2 times higher than the same amount in Ulaanbaatar” and these shortcomings are still unsettled.

... For instance, a large amount of garbage and waste is disposed of in the basin of Uliastai river near Shar Khad and this has created an extensive dumpsite. There is a significant number of such dumpsites in summer camps outside the capital city ...

An average lead content of the soil in Ulaanbaatar is 43.7 mg/kg or twice as much as that of unpolluted soil and it reaches 433 mg/kg that is 4.3 times more than the permissible amount in some areas.

Garbage and waste disposed of in capital city ger districts flow and block floodway and gradually lead to pollution of Tuul river through Selbe and Dund rivers when snow melts and heavy rains fall.

The incidence of contagious diseases directly caused by soil contamination increasingly grows. Dysentery accounted for 5.2 percent of all contagious diseases in Ulaanbaatar in 2006. 38 more cases were recorded in 2006 and 527 more cases that account for a 28.2-percent increase in 2007 compared with those 2005 respectively. 6,695 cases of hepatitis with a 3-percent increase were recorded in 2006 compared with 2005 and there were 10,029 cases of hepatitis in 2007 with 3,334 more cases that make up a 49.7-percent increase compared with 2006.

Capital City Water Supply, Drinking Water Pollution, and Lack of Water. As issues on water supply and drinking water pollution were raised in the 2004 Report on Human Rights and Freedoms in Mongolia, in this report water supply, sources, hygiene, pollution, and lack of drinking water of the capital city are considered.

According to preliminary results of the water census carried out in 2007, 43 rivers and streams, 2 lakes and ponds, 51 springs, 11 hot springs, 11 pools and ponds, 1,039 drilled wells, 234 short chimney wells, and 33 typical mine wells were counted in Ulaanbaatar respectively. There are no rivers in 3 districts – Nalaikh, Bagakhangai and Bayangol has 2 springs and 1 spa.⁵

A regional survey on spring water was carried out in 2005 in the country and it revealed that 67.9 percent of springs around Ulaanbaatar didn't comply with hygiene standards of drinking water.⁶ Pebbles and sand are extracted in the basin of Tuul river and it has led to many dug up holes which are filled up with enormous garbage polluting the

⁵ Data from the Water Authority, 2007

⁶ Report of Joint Assessment by the World Health Organization, Ministry of Health, University of Health and Science, 2005, p 13

river. With a rapid increase in the population of Ulaanbaatar in the recent years water consumption has grown thus, leading to an increased amount of waste water of the Central Sewage Treatment Facility flowing into Tuul river. For instance, whereas the amount of waste water flowing into Tuul river was 0,53 m³/sec in May 2004 it increased up to 3,15 m³/sec in July and 8,8 m³/sec in September 2004 respectively. Obviously, now, this figure has increasingly grown.

After waste water of the Central Sewage Treatment Facility flows into Tuul river the ammonia ion content reaches 1,0-2,0 mg/l (polluted or highly polluted) or even 12,5 mg/l at times (extremely polluted).⁷ This affirms that there is an urgent need for renovation of the equipment of the Central Sewage Treatment Facility.

Some factories dumped their waste water in Tuul river, seriously violating the legislation of Mongolia.

... Tuul river got highly polluted as 5 tanneries dumped waste water with chemicals into it and untreated waste water had been pumped out of 3 filters of the Central Sewage Treatment Facility into it for 4 days in mid-2007 and as a consequence, 2-3 tons of fish died in an over 40-km area along the river from Salhit settlement, Tuul village, sub-district No. 13, Khan-Uul District to Mandal bend, bags No. 1 and 2, Altanbulag soum, Tuv aimag. This tragic incident was caused by a disrupted balance of oxygen in Tuul River and water polluted with minerals, nitrogen, and floating mud.

Evaluation of the legislation of Mongolia on the environment, Report on "Nogoon Od" Program, 2008, p. 8 ...

It is necessary to improve inspection and monitoring and lead culprits to have liability in due time and make it public and transparent regularly to prevent such incidents. Serious chemical and biological pollution of Tuul river between Gachuurt to Altanbulag is associated with the dumping of the Central Sewage Treatment Facility and other polluted sources flowing into the Tuul river.⁸ Therefore, this stresses not only renovation of the equipment of the Central Sewage Treatment Facility but also needs to take action to put new sanitary and hygienic regimes in place in Tuul river zones, move households and resorts adjacent to sources of water, eliminate open rest rooms and waste water sites, and clear garbage disposed of outdoors.

Supply of Adequate and Safe Food. Adequate and safe food is important for a healthy life, employment, education, and long life. The 2005 Report on Human rights and freedoms in Mongolia provided a specific focus for the right to adequate and safe food. This report looks at the implementation of the recommendations made in the above report and current situation of food safety based on information and data.

The International Covenant on Economic, Social and Cultural Rights ensures the right to adequate and healthy food and obliges the governments of the States Parties to

⁷ Report Assessment of the Environment in the Capital City, 2005

⁸ *Ibid.*,

ensure that everyone enjoys it. Although the Constitution doesn't specifically refer to the right to adequate and safe food, it is part of the right to a healthy and safe environment and right to protection of health.

The restoration of national industries, in particular, food industry, in the past years, has a positive impact on the right of citizens to healthy and safe food. Sales reached Tg 124 billion in the food industry and foodstuff valued at Tg 1.8 billion was exported in 2007. About 6.4 million livestock are consumed per year nationwide. In other words, 210.0 thousand tons of meat are processed per year and it meets domestic demand and is exported overseas. Annual demand for dairy products per year is 325.9 million liters and a total of 476.4 million liters of milk and dairy products were supplied to the market nationwide in 2006. The average of demand and supply of flour has been about 210,000 tons in the past 5 years. 114,500 tons of potatoes and 76,500 tons of vegetables were harvested in 2007 and this met 98.2 percent of demand for potatoes and 47.3 percent of demand for vegetables. Given the average of the past 4 years 40,000 tons of potatoes and 6,600 tons of vegetables were imported each year.

The country meets part of its demand for wheat, flour, potatoes and vegetables, and eggs and all demand for butter, vegetable oil, sweet, fish products, tea, coffee, fruit, berries, and rice is met by imports.

Food quality and safety are disrupted due to non-compliance with hygiene standards in the course of processing of raw materials and production, storage, and transportation of foodstuff and this leads to human rights violations. The Consolidated Central Laboratory, State Specialized Inspection Agency (SSIA), carried out hygiene and bacteria tests for 4,182 samples of raw materials for food and products revealed that 49 or 1.17 percent were contaminated with bacteria and mold and fungus were found in 71 or 3.7 percent of 1,922 samples. When samples of meat sold at food markets were tested in 2007, 100 percent were contaminated with bacteria, 60 percent lacked coverings, 9-12 percent had changed smell and color, 16 percent had thin rot, 3.9 percent had slime, and 2 percent has rot and spots.⁹ Tests conducted for chemicals and poison in samples of milk and dairy product in the Consolidated Central Laboratory, SPIA, in 2007, revealed that 4.4 percent were contaminated by chemicals and 40 percent by brucellosis and 36.7 percent were blended with either water, flour or soda.¹⁰ Inspection and assessment also revealed that some herders from Tuv aimag and individual salers mixed milk water with water and flour.¹¹

The Ministry of Food and Agriculture (MoFA) carried out assessment to determine the contamination level of food products in 2005 and revealed that 9.3 percent of supermarkets and stores, 12.5 percent of shopping centers and markets, and 21.7 percent of booths were operating in non-designated premises and 37.2 percent of all the employees didn't have medical checkups at all. In addition, 69.7 percent of the goods had no shelf lives, 52.4 percent were being sold without hygiene and safety certificates. When samples of the goods were tested, 17.4 percent didn't meet requirements in a bacteria test and 26.5 percent in a chemical test.

⁹ Data from the MoFA

¹⁰ Test results from the Consolidated Central Laboratory, State Specialized Inspection Agency (SSIA), and data from the MoFA, 2007

¹¹ Assessment materials from the NHRC

A number of major incidents of food poisoning and contamination broke out due to non-compliance with quality, safety, and hygiene standards of foodstuff in the first half of 2006.

... For instance, 193 persons were poisoned by a cake produced by Amtlag bakery, Khan-Uul District, in 2005, and over 500 people by food cooked with contaminated and untested meat in a cafeteria, Thermal Power Plant No. 3, in June 2007...

When the State Specialized Inspection Agency tested 40 percent of foodstuff imported into Mongolia, it revealed that approximately 7,8 percent thereof didn't comply with quality, safety, and hygiene standards. Smuggling of methanol and industrial spirits still continues as a result of a lack of strict border inspection. A tragic incident that resulted in the death and damage to health of many people who consumed alcohol made of these spirits broke out in Baganuur District. It is worth taking comprehensive measures to reduce the share of conventional food in the structure of the population's food consumption, increase the number of specialized border inspectors and improve their skills and accountability taking into account the growing amount of imports, and enhance capacities and precision of border laboratories.

32.2 percent of the population lived below the poverty line or every 32 out of every 100 persons couldn't afford for food and essential consumer goods other than food as of 2006.¹² The NHRCM conducted a survey on food supply and safety for poor households in Ulaanbaatar and aimags – Khentii, Dornogobi, Gobi-Altai, and Arkhangai targeting on 3,926 persons of 731 households in 2005. 381 out of the 731 households or 60 percent were desperately poor and 209 or 32.5 percent were poor. 24.9 percent purchased food by borrowing money, 11.8 percent by begging, 7.8 percent with income from family business, 5.1 percent with siblins' support, and remaining 50,4 percent could afford for it. Food safety is disrupted for these households and the number of food they consumed is limited.

Article 12. 28 of the general recommendation issued by the International Covenant on Economic, Social and Cultural Rights provides “The State Parties shall ensure the right to safe and healthy food for vulnerable and individual citizens when food resources have become limited due to factors such as economic recession, and temporary factors.” The need to take specific measures to supply food containing the required protein, calories, vitamins and minerals is inevitable.

As Article 11.2 of the International Covenant on Economic, Social and Cultural Rights states “The State Parties shall recognize the fundamental right of everyone to be free from hunger and take ... the measures which are needed” the central administrative organization in charge of social welfare needs to take the lead in addressing accessibility and supply of appropriate and safe food to vulneral groups such as children, senior citizens, people with disabilities, and desperately poor ones.

¹² Second National Report on the Implementation of the Millennium Development Goals, 2007, p. 16

As provided in detail in the 2005 Report on Human Rights and Freedoms in Mongolia supply of good quality food containing protein, calories, vitamins, and minerals sufficient for a normal growth of infants is inadequate. The provision of a monthly allowance of Tg 3,000 and quarterly allowance of Tg 25,000 by the Government for children is a measure of vital importance to ensuring the right of the child to life. Moreover, measures taken in the framework of the National Program on Child Development and Protection to improve the quality of food and nourishment for infants product positive results and however, incidents such as cachexia, slowed down growth, physical fatigue, and vulnerability to contagious diseases are still common among infants from vulnerable groups and remote areas.

Infants still suffer from numerous diseases due to malnutrition. Studies demonstrate that 43.2 percent of infants aged up to 5 and 28.6 percent of adolescents suffer from vitamin D deficiency. Ensuring hygiene and safety of food inadequately causes various diseases and illnesses.

1.3. Right to Labor

Article 16.4 of the Constitution provides “the right to free choice of employment, suitable conditions of work, remuneration, rest and private enterprise. No one shall be unlawfully forced to work.” Article 23 of the Universal Declaration of Human Rights declares that “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.” Article 7 of the International Covenant on Economic, Social and Cultural Rights provides “The State Parties shall acknowledge the right of everyone to the enjoyment of just and favourable working conditions of work which ensures, in particular, remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.”

Mongolia has acceded to about 16 conventions of the International Labor Organization (ILO) and abides by the Labor Law (1999) included the provisions of the above covenants and ILO treaties and conventions. Article 5 of the Labor Law specifies “An employer is obligated to provide his employees with work and reasonably comfortable working conditions, to compensate such employees for their work, and to fulfill his or her obligations under the this law, contract of employment’s, and internal labor regulations” and Article 6.1 “An employee shall have the right to be provided with working conditions that comply with safety and sanitation requirements; to receive compensation for his work; to take a vacation as provided in applicable internal regulations; to assemble with other employees for the purpose of protecting his rights and legal interests through a representative or representative organization; and to receive a pension, social insurance, and other benefits as provided in applicable contracts.”

Basically, the legal framework for free choice of employment is created. Today, the Law on Promotion of Employment (2001) and Law on Dispatch of Workforce Abroad and Receiving of Workforce and Specialists From Abroad (2001) are effective. Article 5.2

of the Law on Vocational Education and Training (2002) states “The purpose of vocational training shall be to promote employment through training and re-training of professional workers.” In the past 3 years 22,300 persons completed vocational and production centers and trained as new professional workers and this ensures the right to free choice of employment.¹³ As mentioned in the Human Development Report passive employment accounts for 32.2-34.5 percent among special training school and vocational school graduates or 2.2 times lower than that of their peers who obtained secondary and high education and this indicates that mentality and conditions are provided for enjoyment of the right of educated persons to work.

Rate of Employment of People Aged 15-29 by Educational Levels (2006)¹⁴

No	Type of education	Participation of workforce	Rate of unemployment	Rate of employment	Rate of passive employment
1	Uneducated	51,9	5,1	53,3	42,1
2	Primary Education	50,2	7,7	46,3	49,7
3	Secondary education, graduates of the 8 th grade	26,2	14,9	22,3	73,7
4	High education, graduates of the 10 th grade	25,4	21,9	22,2	71,6
5	Vocational education	65,4	15,3	55,4	55,5
6	Education of special training	67,7	7,1	62,3	32,2
7	Bachelor's degree	77,5	11,6	68,5	22,5
8	S. Master's degree and higher	79,2	5,4	74,9	20,7
	Total	39,7	14,0	34,2	60,2

The Government has taken measures to reduce unemployment and poverty by creating jobs in the recent years. 50,000 jobs were created and 55,400 out of 166,200 unemployed who had no good excuses got jobs through employment agencies in 2007. The number of the unemployed registered with labor, welfare, and service offices in urban areas dropped to 29,900 at the end of 2007 and decreased by 9.1 percent or 3,000 persons compared with the end of 2006.

Citizens say that they have to look for acquaintances and at times give “bribes” to get a job but this isn’t something unjustifiable. Conversely, the country has provided citizens with an opportunity to run a business since the 1990s and private sector develops and has a positive impact on the reduction of unemployment. Moreover, multiple citizens act as sole proprietorships. Following the passage of the Business Entity Law through the State Lower Hural (Lower House of the Parliament) in 1991 business laws such as the Company Law (1999), Cooperative Law (1998), and Partnership Law (1995) were adopted and as a result, legal framework of private business development was created over a decade. As Article 16.4 of the Constitution (1992) stipulates that a citizen enjoys “... the right to free choice of ... private enterprise” companies, partnerships, and cooperatives,

¹³ December 2007 Bulletin of the National Statistics Office

¹⁴ Human Development Report, 2007, p. 91

supreme forms of private sector structure, are formed and they have developed into a formal economic sector reaching the current level.

Figures of Private and Foreign Invested Business Entities in the Past 3 Years¹⁵

Type of business entity	2005	2006	2007
LIC	29,326	35,162	42,202
Partnership	3,425	3,345	3,275
Cooperative	3,012	2,926	2,746
Total	35,963	41,433	48,223

There are 48,223 business entities in 2007 and there were 12,206 more business entities or 34-percent increase in 2007 compared with those in 2005 and 6,790 more business entities or 16.4-percent increased compared with those in 2006. The Parliament adopted Public Policy on Informal Employment in 2006 to promote sole proprietorships' initiatives and provide overall support for informal employment. This policy document specifies prohibition of all forms of pressure for workers engaging in informal employment, respect for the right of individuals and households to run a joint business, and support for initiatives and activities to transfer from informal employment to formal one.

There were 366,226 herders raising livestock at the end of 2007.¹⁶ Individuals who mine gold manually accounts for the most vulnerable group among those working in the informal economy whose rights are often violated. This issue was considered in the 2004 Report on Human Rights and Freedoms in Mongolia. The Government took action to ensure that the issue of individuals mining gold manually is regulated by law and issued a resolution on regulation of activities of individuals mining gold manually in January 2008 and it was a promising start.

Article 7 of the Labor Law stipulates "No one shall be forced to perform work. Discrimination, or the conclusion of limitations or advantage based on nationality, race, sex, social origin or status, wealth, religion, or ideology is prohibited." However, some local police still force detainees in pre-detention and sobering-up facilities to work.

Explicit and implicit discrimination still persists in some budgetary and private sector organizations. The Assessment of the Human Rights Situation in the Labor Market conducted by the Confederation of Mongolian Trade Unions (CMTU) in 2005 reported that 31 or 16.1 percent of 192 enterprises and business entities assessed discriminate their employees. Reasons for discrimination are usually party affiliation, sex, and wealth. When they asked whether men and women performing the same work were paid equal salaries and wages they found that 19.8 percent of all the enterprises and business entities assessed fail to do so. Moreover, it should be noted that discrimination based on age, sex, and appearance is a commonplace.

¹⁵ Data from the Registration of the General Department for National Taxation, 2007

¹⁶ December 2007 Bulletin of the National Statistics Office

The right to remuneration is provided for in Article 23 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 47 of the Labor Law states “Salaries and remuneration consist of basic wages, additional pay, extra pay, awards and bonuses” and Article 49 sets forms and principles of payment of remuneration. This provision is abided by most business entities and organizations and basic salary, additional pay, and compensation are paid. Nevertheless, a few private business entities fail to pay full salary, additional salary, and overtime pay in violation.

The correlation between average salary, minimum wage, and change in the rate inflation is inadequate.

Total Household Income and Percentage of Salaries

Type of income	National average				City				Rural areas			
	2003	2004	2005	2006	2003	2004	2005	2006	2003	2004	2005	2006
Total income - total	100	100	100	100	100	100	100	100	100	100	100	100
1. Cash income - total	50.7	55.5	57.4	56.7	92.2	92.3	94.8	95.1	68.2	63.1	50.8	54.0
Salary	25.6	29.4	33.8	37.8	37.8	45.4	55.6	58.6	12.6	12.3	14.4	19.6
Retirement pension and pension	6.6	8.3	10.3	11.4	7.3	10.0	11.3	13.7	5.8	6.7	8.9	9.9
Income from household production and services	20.0	21.1	20.5	20.0	23.6	23.8	19.0	14.7	36.8	37.8	32.3	45.3
Others	18.5	8.7	7.8	7.5	23.5	11.0	8.8	8.1	13.0	6.3	5.3	7.2
2. Income received from others for free	4.4	3.9	3.6	2.1	5.4	4.5	3.7	2.6	3.1	3.3	2.5	1.9
3. Foodstuff produced by a private business	14.9	17.6	9.0	11.2	2.4	3.2	1.5	2.3	28.7	33.6	16.7	14.1

According to a survey of the General Association of Mongolian Employers (GAME) whereas over 40 percent of business entities tend to pay a relatively small portion of total salaries in advance and the rest based on performance, about 57 percent pay half of salaries in advance and the rest based on performance. Performance-based payment of remuneration is inadequate in the areas of education, mining, financial lease, and health, and hotels and restaurants and this is associated with inflexibility of the salary system. 75 percent of entrepreneurs and managers suggested revision of remuneration-related rules and regulations in conformity with the increase in the prices of goods and services.

The legal framework that ensures a close correlation between public and private sector salary system hasn't been created yet. Therefore, it is needed to change the legal framework that obstructs an increase in remuneration in the private sector due to a market orientation.

Article 3 of the ILO Convention Concerning Nightwork 171 states “Specific measures required by the nature of night work, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.” Article 8 of the Convention provides “Compensation for night workers in the form of working time, pay or similar benefits shall recognize the nature of night work.” Article 4.1 of the ILO Nightwork Recommendation No. 178 states “Normal hours of work for night workers should not exceed eight in any 24-hour period in which they perform night work, except in the case of work which includes substantial periods of mere attendance or stand-by, in cases where alternative working schedules give workers at least equivalent protection over different periods or in cases of exceptional circumstances recognized by collective agreements or failing that by the competent authority” and Article 4.2 of the Recommendation “The normal hours of work of night workers should generally be less on average than and, in any case, not exceed on average those of workers performing the same work to the same requirements by day in the branch of activity or the undertaking concerned” respectively. Article 8.1 of the Recommendation provides “Night work should generally give rise to appropriate financial compensation. Such compensation should be additional to the remuneration paid for the same work performed to the same requirements during the day.” However, as Article 54 of the Labor Law stipulates “If an employee works during night hours and isn’t given an equivalent period of rest during normal business hours, he or she shall receive extra compensation in accordance with applicable collective and employment contracts,” extra compensation will be paid in case he or she isn’t given the equivalent period of rest and this conflicts with the above Convention and Recommendation. The Labor Law neither provides for continuous hours of work for night workers nor lays down hours for nightwork, remuneration, and other related allowances, and renewal of pregnancy and maternity leaves for mothers with respect to relations being regulated by collective agreements.

Article 91.1 of the Labor Law provides “An employer shall provide an employee with favorable working conditions and ensure that chemical, physical and biological conditions resulting for production processes will not have a negative impact on safety, sanitation, or the natural environment.” However, not all business entities and organizations regularly operate in ensuring labor safety and hygiene standards for employees. Such non-compliance can be observed in some private and foreign invested business entities and organizations in particular. It is common for individuals working in the informal mining industry, in particular, individuals who mine gold manually to have industrial accidents because of inadequate labor safety and hygiene standards.

Industrial Accidents in 1995-2007

Indicator	Number by year												Total
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	
Number of accidents	521	403	365	254	345	427	343	371	305	320	396	343	4434
People who had accidents	550	424	440	321	345	451	365	371	323	366	460	379	4533
People disabled in accidents	46	77	42	43	36	34	34	42	41	57	57	65	577
Number of deaths	35	47	46	27	29	57	47	50	64	67	134	57	725

Whereas the percentage of deaths in the total number of industrial accident victims was 6-11 percent in 1996-2000, it reached 13-29 percent in 2001-2007 and this indicates how much labor safety is ensured. According to a report of the SSIA there were 2,861 industrial accidents in 2000-2007 with 3,100 casualties 2,164 out of which lost their work capacity, 368 got disabled and 568 died. 423 accidents happened in the mining industry, 418 in the light and food industry, 239 in the road, transportation, and communications sector, 168 in the health sector, and 86 in agriculture respectively in 2000-2007. One third of all the accidents happened in the capital city. The number of industrial accidents was higher in aimags such as Orkhon (139), Darkhan-Uul (101), Khentii (55), Selenge (51), and Dornod (41). However, on average, up to 2 industrial accidents happened per year in aimags Gobi-Altai, Bayan-Ulgii, Uvs, Hovd, Bayankhongor, Gobisumber, and Sukhbaatar.

1.4. Right to Social Welfare

Article 16.5 of the Constitution provides the “right to material and financial assistance in old age, disability, childbirth, and in other cases provided for by law.” As the NHRCM reported the disabled who lost their work capacity in detail in 2007, the above Article of the Constitution is considered in the context of the elderly in this report.

The Proclamation on Aging adopted by Resolution 47/5 by the General Assembly in 1992 deems “... persons of the age of 60 or over” the elderly. Moreover, the UN adopted the Principles for Older Persons in 1991 and stated that the principles are closely related to the rights provided for in the International Covenant on Economic, Social and Cultural Rights. As stipulated in these documents, the elderly are entitled to the following five groups of rights.

- Right to independent life (access to adequate food, water, shelter, and clothing);
- Right to full participate in social life (opportunity to work and learn, participate

actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with others, associate, and remain integrated in society);

- Right of everyone to social security and welfare (to benefit from family and children care and health care, pension, and other services of social welfare);
- Right to restore lost opportunities and capacity;
- Right to respect of dignity (to live in dignity and security and be free of exploitation, physical or mental abuse, and discrimination).

Allowances valued at Tg 2.2 billion were granted to 89,910 older persons in 2007 in the framework of the Law on Social Welfare for Older Persons (2005) and this is an indication that the State addresses issues of such persons to some extent.

The NHRCM carried out an inspection in nursing homes at Batsumber soum, Tuv aimag, and Sainshand soum, Dornogobi aimag, in February 2008. The inspection revealed violations of the rights of the elderly in the nursing home, Batsumber soum. The rights to adequate food and shelter, safe and quite life, and good quality health service were violated more for the elderly. For instance, as the building of the nursing home got old and deteriorated, the rooms were damp and cold and ceilings and walls had fungus. In addition, the food was budgeted for the elderly at the rates quite lower than the market prices (about Tg 2,000 for each person per day). 32 older persons who had a chronic mental illness, in the nursing home, Batsumber soum, infected the other ones and employees of the nursing home with it at its highly serious phase and inflicted damage on their health. The Government and Ministry of Social Safety and Labor need to give attention to nursing homes.

... The fact that financial assistance provided by the State for pregnant and nursing mothers grows year by year is appreciated. For instance, the State allocated Tg 12.5 billion to 65,890 pregnant and nursing mothers, Tg 2.6 million to 111 mothers who gave birth, Tg 1.6 billion to 19,732 persons who took care of infants, and Tg 57 million to 350 citizens who adopted and raised full orphans in 2007 respectively. In addition, financial assistance of Tg 5.8 billion were provided for 58,258 newborns and Tg 33.4 million for 938,926 ...

Resolution No. 88 adopted by the Parliament in 2007 laid down that allowance of Tg 1 million should be given once to citizens who took out complete military pension before 1995 and resolution No. 21 adopted in 2007 stipulated that allowance of Tg 100,000 should be given once a year to mothers with first-class medal “Mother’s Fame” and Tg 50,000 to mothers with second-class medal “Mother’s Fame” respectively and this was an effective measure taken the livelihood of mothers who gave birth many times and persons who served in the military for many years.

1.5. Right to Protection of Health and Health Care

The NHRCM assessed the realization of the right to protection of health and health care and exposed its results in its 2003 report. This report considers measures taken by the State and progresses made to ensure the right of its citizens to protection of health.

The implementation of 10 sectoral and national programs adopted by the Government such as “Medical Technology Development,” “Reproductive Health,” “Environmental Health,” “Healthy Mongolian,” and “Fight Against Contagious and Non-Contagious Diseases” aimed to decrease and prevent primary and other dominant diseases has been efficient.

Numerous measures to improve quality and access to health care and health service, to enhance material resources, to introduce some up-to-date advanced technology for diagnosis and treatment, to develop skills of physicians and personnel through re-training, to provide adequate standards and recommendations, to provide physicians for rural areas, and to optimize databases have been taken in the health sector. For instance, 41 soum hospitals were built, 231 hospitals were renovated, fleets were overhauled in 85 percent of all soum hospitals, laboratory equipment was supplied for maternity hospitals and 300 soum hospitals, and up-to-date high capacity equipment was installed in hospitals in 2002-2006. The National Program on Medical Technology Development states “80 percent of about 4,000 pieces of medical equipment in the country have been used for 9-21 years and old and out of dated” and this demonstrates that it is necessary to take much action in the future in this respect.

Measures to change ethical norms of medical specialists in conformity with new trends in the health sector, current needs for services and interests of customers, conduct training and publicity, and hold contests aimed to select institutions and staff that respect ethics of medical personnel in the framework of the Project on Ethics and Integrity for Good Governance in the Health Sector.

A priority given to provision of conditions for steady employment by physicians in soum hospitals ensures that the right to protection of health and health care isn't violated for citizens in rural areas.

Article 12. 2 (a) of the International Covenant on Economic, Social and Cultural Rights obligates the State Parties to reduce the stillbirth-rate and infant mortality and for the healthy development of the child, and accordingly, governments take relevant measures. However, although the maternal mortality rate for every 100,000 live births decreased from 93 points to 69.7 points in 2005 and 2006, it increased up to 89.6 points in 2008.

It is necessary to give much attention to citizens' mental health. A National Center for Mental Health was established according to the Law on Mental Health (2000) and other relevant laws for purposes of implementing the Government Program on Mental Health for 2002-2007 and measures to improve coordination and management for enhancement of quality and access of mental health care and service are taken. Moreover, steps such as training and publicity, mental therapy, and development and implementation

for diagnosis and medical treatment of 7 types of mental illnesses are taken in improving quality of mental health care and service. It is worth carrying out detailed assessment for problems of thousands of people in a state of agitation and mental depression study and determine approaches of providing medical treatment for them in the future. Furthermore, establishment of a state nursing home for street persons and suffering from chronic mental illnesses is essential.

A year-by-year increase in a spread of some contagious diseases is alarming. 52.4 percent of tuberculosis spread in Ulaanbaatar, 15.5 percent among children, and 68.4 percent among people aged 16-49. The number of brucellosis victims still persists and 10,850 persons are under medical surveillance due to this disease. A spread of STD/HIV isn't in decline but it tends to increase in some cases. Whereas the number of people suffering from syphilis was 3,017 in 2006, it grew up to 3,306 in 2007 with 289 more cases. This is because education and training in health and good lifestyle are inadequate for children and youth. As publicity on harms of hepatitis can't reach out to citizens every time and this leads to an increase in the number of hepatitis victims. 6,695 persons fell sick with hepatitis in 2006 and 10,029 in 2007 respectively. It is observed that the number of contagious diseases, cardiovascular diseases, respiratory diseases, and tumors tends to increase due to environmental pollution.

Inspection carried out in public and private hospitals in central and local areas revealed 11,537 shortcomings in medical surveillance 92 out of which were in diagnoses, 100 in medical treatment tactics and technology, 57 in ethics, and 29 in accountability and negligence.¹⁷ Medications that are sub-standard, poor quality, and expired and have no test certificates and state registration cause serious harms to public health and human lives, violating the right to protection of health and health care.

Shortcomings such as sales of expired medications without test certificates and state registration, sale and preparation of medications with relevant licences and quality certificates for medical treatment, non-compliance with general requirements for drug suppliers were revealed in several hospital drugstores, private pharmacies, and drugstores in Orkhon and Bulgan aimags and in Ulaanbaatar.¹⁸

1.6. Right to Education

Article 16.7 of the Constitution provides that a citizen has "the right to education. The State shall provide universal general education free of charge. Citizens may establish and operate private schools if these meet the requirements of the State," and Article 5 of the Law on Education (2002) "to develop education as a priority sector and it shall be subject to the care and coordination of the State and monitoring of the State and public. Education-related relations are regulated by the Law on Primary and Secondary Education (2002), Law on Higher Education (2002), and Law on Vocational Education and Training

¹⁷ Consolidated Records of Inspection of Central and Local Specialized Inspection Offices, 2007

¹⁸ *Ibid.*,

of standards (2002). Moreover, policy documents such as the Law on Education, Law on Social Welfare (2005), Law on Social Welfare of the Disabled (2005), and Government Program on Literacy, Policy on Child-Friendly School Development, and Master Plan on Educational Development of Mongolia for 2006-2015, are adopted.

Adoption and application of primary and general education standards through revision of regulations on granting and revocation of licences for kindergarten and general school teachers, regulations on granting and revocation of professional decrees for kindergarten, general education school, and education board methodologists and informal education teachers, regulations on development of professional skills of pre-school, primary, and secondary school teachers and relevant officials, was action aimed to create the legal environment for ensuring the right to education.

The country has two educational systems – formal and informal and provides pre-school, primary, secondary, and higher education. The forms of formal education include morning, evening, extramural, and external ones. Content and standards of formal education are set by regulations provided for in legislation but content of informal education are flexible.

Education is compulsory for children aged up to 16 and state-owned schools provide general education free of charge. Children are entitled to use school facilities and classrooms free of charge and this allows them to develop their talents and skills and spend their leisure efficiently.

It is essential to provide physical conditions for schools to ensure the right to education and funds equal to 7 percent of GDP are allocated to the educational sector. For instance, financing for the educational sector reached Tg 195.2 billion in 2006-2007 with a 33.8-percent increase. 18-20 percent of the total budget for the educational sector are expended on pre-school education, 35-40 percent on general education, about 3 percent on dormitories, and the remaining portion on professional education and administration. The sector of education, culture, and science budget reached Tg 270.6 billion following the revision of the national budget approved by the Parliament and increased by 14.5 percent equal to Tg 34.4 billion compared with that adopted in 2007.

Pre-School Education Article 11 of the Law on Primary and Secondary Education that specifies “A kindergarden shall be a pre-school educational institution that develops children physically and intellectually from the age of 2 till school enrollment,” “A kindergarden shall provide pre-school education for children in compliance with educational standards” is significant as it accounts for an initial step in ensuring the right to education. A total of 10 pre-schools and 742 kindergartens were in operation in the 2006-2007 academic year taking care of over 60 percent of all children or 94,700 children. 87 percent of all kindergartens are state-owned and 8 private ones and the rest are operated by organizations. About 98 percent of all kindergartens are ordinary ones and they educate children residing in their territory for 5 days per week on September 1-June 1 annually and develop speaking skills and teach simple mathematical notions, music, physical education, and fine arts in compliance with applicable standards.

Children of herders' households in ger districts and remote areas and individuals mining gold manually still have limited access to pre-school education. The low enrollment of children in rural areas is associated with herders's lifestyle. Herders' households have to move much farther away from each other owing to a lack of pasture and desertification and this leads to an increase in pre-school education cost. It is necessary to give attention to children of herders' households and individuals mining gold manually.

Basis Education The amendments (2006) made to the Law on Primary and Secondary Education adopted for purposes of bringing curricula and content of primary and secondary education in compliance with international standards specify "Primary education shall be provided for 6 years, basic education for 9, and secondary education for 12 respectively." There is a need to direct activities of educational institutions to comprehensive action aimed to address educational standards, curricula, learning environment, teacher's education and benefits, financing for activities, in particular, care of infants, and creation of child-friendly environment in addition to transfer of general education into a 12-year system and optimization of the legal framework.

Article 30 of the Law on Education includes the realization of the right of national minorities to education, cultural inheritance, and communication in native language in school settings, in the powers of aimag governors and mayor. Particular attention is being paid to increased equal access to education for Kazakh children and those from reindeer households.¹⁹ The Ministry of Education, Culture, and Science (MoECS) developed educational standards and curriculum of Kazakh language in cooperation with the Education and Culture Department, Bayan-Ulgii aimag, and adopted a Tuva language curriculum in accordance with a decree issued by the Minister of Education, Culture and Science.

Policy on Child-Friendly School Development adopted in 2004 according to degree No. 190 issued by the Minister of Education, Culture, and Science determines activities aimed to ensure fundamental rights of the child in school settings. As recommended by the President of Mongolia a course "Civil Education" aimed to form good characters and to teach social relations values for students incorporated in curricula and taught starting from the 2006-2007 academic year and 647,400 textbooks are distributed to children of vulnerable groups through school libraries and textbooks are used by every four children free of charge in secondary schools. This enables all children to enjoy the right to education.

Informal Education 12,300 children aged 7-15 dropped out of school in the 2005-2006 academic year and 61 percent were boys. There were 8,775 school dropouts in the 2007-2008 academic year and the number declined by 28.6 percent with 3,525 less dropouts compared with the preceding year. The MoECS developed 25 standards of primary and secondary education allowed children to receive alternative education. 4,372 children aged 7-15 were enrolled in alternative education programe, 4,837 adults in literacy programs, and 12,747 adults in professional orientation and life science programs respectively in the 2006-2007 academic year. One reason infants drop out of school in rural areas is inadequate access to dormitories. Due to funds allocated from the national budget and other sources for construction, expansion, and renovation of dormitories the number of children residing

¹⁹ Analysis of Kazakh Children's Education, Save the Children, UK, 2005

in dormitories rose by 22 percent from 33,700 to 41,100 in 2002 and 2005. In other words, 84 percent of all applicants were provided with dormitories.

Vocational Education. There are 56 vocational training and production centers (VTPC) in operation in the 2007-2008 academic year and 42 state-owned and 14 privately-owned. 20.9 percent of children who got basic education enrolled in VTPCs in the 2006-2007 academic year and this demonstrates growing demand for vocational education. Furthermore, a monthly scholarship of Tg 23,000 has been granted since the 2007-2008 academic year to VTPC students and such scholarships are granted to 24,700 students. The launch of measures such as development of new general requirements for VTPCs, establishment and restructuring of vocational education and training institutions (VTPCs, colleges, and schools), granting of licences, certification, accreditation, and making of judgments on training for new professions has great significance.

Higher Education. There are 150,900 students currently studying in 162 universities and colleges in the 2007-2008 academic year 47 out of which are state owned, 109 privately-owned, and 6 branches of foreign universities. The Government provides soft loans, scholarships, and grant aid for training for university and college students through the State Education Fund. 11,000 students were granted loans and 17,400 grant aid from the State Education Fund in the 2006-2007 academic year. 18,500 students benefit from allowances allocated to civil servants' families. A growth in scholarships granted by commercial banks, major business entities, and public institutions to successful students with a low living standard is appreciated by the public. Attention should be paid to improvement of higher education quality, increase in convertibility of professions, and creation of jobs for graduates. 44.4 percent of 25,900 university and college graduates majored in social sciences, 12.6 in teaching, 11.9 in engineering and technology, 10.1 in humanitarian science, 7.5 in health and social welfare, and 13.5 in other areas respectively in 2007.

1.7. Right to Intellectual Property

Mongolia ratified the Convention Establishing the World Intellectual Property Organization (WIPO) in 1978 and subsequently acceded to 14 out of 22 treaties and agreements binding worldwide. The country has been taking step-by-step action to ensure compliance of national legislation in connection with its accession to the WTO in 1996 in addition to the ratification of the Berne Convention for the Protection of Literary and Artistic Works in 1997 and accession to the Hague Agreement Concerning the International Deposit of Industrial Designs in 1997. For instance, the revised versions of the Patent Law, Copyright Law, and laws on other relevant rights were adopted by the Parliament in 2006 and as a result, the provision that allowed further extension of 20-year duration of intellectual property patent was amended excluding new breeds of plants and animals, some methods of diagnosis and medical treatment from innovations, and criteria and activities of accredited patent representatives were enacted.

Although Mongolia acceded to the Patent Cooperation Agreement in 1991, there was no regulation of submission of an international application under this Agreement in national legislation, and the realization of rights set forth international treaties and conventions such

as the right of a foreign citizen to submit an application in our country, and right of our citizen or organization to protection of the intellectual property right at the international level. However, the number of foreign patent applications grew with inclusion of such regulation in the Patent Law. Moreover, regulation of monitoring of the enforcement of intellectual property legislation, termination and prevention of violations, employment and powers of intellectual property state inspectors authorized to impose liability on citizens and officials violating intellectual property right, was also incorporated into the law.

Amendments made to the Law on Copyright brought legal regulation in compliance with internationally accepted basic concepts of copyright, drew a distinction between copyright and other relevant rights, and clarified regulation related to artists and performers.

The Law on Trademark and Geographical Indications Concerning Industrial Property Facilities enables citizens and business entities running a business to get trademark registered to distinguish their goods and services from others' and promote them in the market, and have access to legal protection.

Since legal protection of intellectual property right was provided in Mongolia in 1960, 3,113 innovations, 1,883 product designs, 6,928 trademarks, and 1,624 utility designs have been registered in Mongolia. The legal framework was created for protection of intellectual works by a citizen of Mongolia not only in Mongolia but also in over 180 countries in the world.

1.8. Right to Participate in State Affairs

A citizen exercises the right to participate in state affairs by electing his/her representative in government bodies at all levels and being elected or appointed to government positions, and take part in national referenda. The NHRCM analyzed the process of the parliamentary and local elections held in 2004 and relevant legislation from the human rights perspective and incorporated its findings and recommendations in the 2005 Report on Human Rights and Freedoms in Mongolia. Thereafter, the presidential election and parliamentary by-election were held in electoral districts No. 46 and 65. Furthermore, several amendments made to the election legislation had effects on the realization of the right of citizens to elect and to be elected.

The Amendment to the Law on Parliamentary Election (2008) revoked Article 6.3,²⁰ Article 13.3,²¹ Article 28.2,²² of the Law.

According to the NHRCM the revocation of the provision of the Law on Parliamentary Law stipulating that no less than 30 percent of candidates from parties and

²⁰ A citizen of Mongolia eligible to vote and residing abroad shall have the right to vote.

²¹ The General Election Committee shall adopt procedures for establishing polling stations to collect votes of citizens of Mongolia residing abroad.

²² No less than 30 percent of candidates from political parties and coalitions shall be women.

coalitions shall be women is a step backward in adopting temporary special measures aimed at accelerating de facto equality between men and women set forth in Article 4 of the Convention on Elimination of All Forms of Discrimination Against Women. It should be noted that Recommendation No. 23 of the Convention on Elimination of All Forms of Discrimination Against Women specifies that setting a quota on candidates nominated for an election may serve as a temporary special measure aimed to ensure equality between men and women.

Residing abroad isn't justification for limitation of the right to elect and to be elected. The right of citizens to elect and to be elected isn't ensured due to failure to determine organizational measures accurately. Revocation of the provision of the Law on Parliamentary Election stipulating that a citizen of Mongolia eligible to vote and residing abroad shall have the right to vote and the General Election Committee (GEC) shall adopt procedures for establishing polling stations to collect votes of such citizens violated of the principle of universal election set forth in the Constitution.

The disabled and detainees still can't cast their votes owing to inadequate organization of elections. We reiterate that as stated in the 2005 Report on Human Rights and Freedoms over 800 citizens eligible to vote detained in detention center No. 0461, General Department for Court Decision Enforcement (GDCDE), couldn't vote in the 2004 parliamentary and local elections. The issue of civil registration and documents of these citizens should be addressed in the course of preparation of the election and the right to elect ensured.

According to an opinion poll conducted by the National Association of Organizations of the Disabled (NAOD) in 2007 among 4,400 disabled citizens from Bayanzurkh, Khan-Uul, Nalaikh districts, and Arkhangai aimag, 34.75 percent of all interviewees voted in the 2004 parliamentary election, 4.25 percent in the 2004 local election, 57.5 percent in the 2005 presidential election respectively and this accounts for inadequate participation of the disabled in elections. 40 percent responded that the reason they couldn't vote in the elections was a lack of braille and 58 percent answered that it was because wheelchair users had no access.

The turnout declines constantly except for a 7-percent increase in the turnout in the 2007 local election compared with that in 2000. This is associated with inadequate public awareness on the importance of elections and poor organization of elections.

Election	Year	Number of voters registered in the list	Voter turnout	%
Parliamentary Election	1992	1,033,129	1,037,392	95.60
	1996	1,147,260	1,037,139	92.13
	2000	1,247,033	1,027,935	82.43
	2004	1,329,797	1,073,317	81.84
Presidential Election	1993	1,106,403	1,023,970	92.73
	1997	1,155,227	932,640	83.06
	2001	1,205,835	1,000,110	82.94
	2005	1,241,691	930,976	74.97
Local Citizens' Representative Election	1996	1,023,216	733,946	71.96
	2000	1,066,147	647,616	60.74
	2004	1,069,252	732,205	67.22

1.9. Right to Form a Party and Public institution and Freedom of Voluntary Association

There are 18 political parties registered at the Supreme Court and 5,300 non-governmental organizations (NGO), 13 vocational training and production associations, and 22 trade unions registered at the Ministry of Justice and Home Affairs (MoJHA), operating within the bounds of the Law on Political Party (2005), NGO Law (1997), and Law on the Rights of Trade Unions (1991) respectively. The Law on State Registration of Legal Entity adopted in 2003 determines relations related to registration of legal entities, registration period, and justification for revoking registration and aims to ensure the right of citizens to association and expeditious delivery of public services.

However, it should be noted that there some obstacles to authorization and registration of NGOs bearing foreign or abbreviated names. For instance, when the network of Mongolian women's NGOs put in an application to a competent authority to switch its name for "MONFEMNET," the authority explained that a foreign name can't be registered under the Law on State Official Language (2003) and suggested that the meaning of the name be interpreted by the Language and Literature Institute, Academy of Sciences. In contrast, there are no provisions in the Law on State Official Language and Law on State Registration of Legal Entities that directly prohibit a NGO's application of a name in a foreign language.

The Constitution prohibits discrimination and persecution of persons based on association and affiliation in political parties and public institutions and this serves as guarantee of the right to association. Moreover, the Law on Civil Service (2002) and Law on the Rights of Trade Unions prohibit discrimination of civil servants and members of trade unions based on affiliation in political parties and other public institutions. However, cases of explicit and implicit discrimination of civil servants based on affiliation in political parties and dismissal and reshuffle still persist in particular, following parliamentary and local elections.

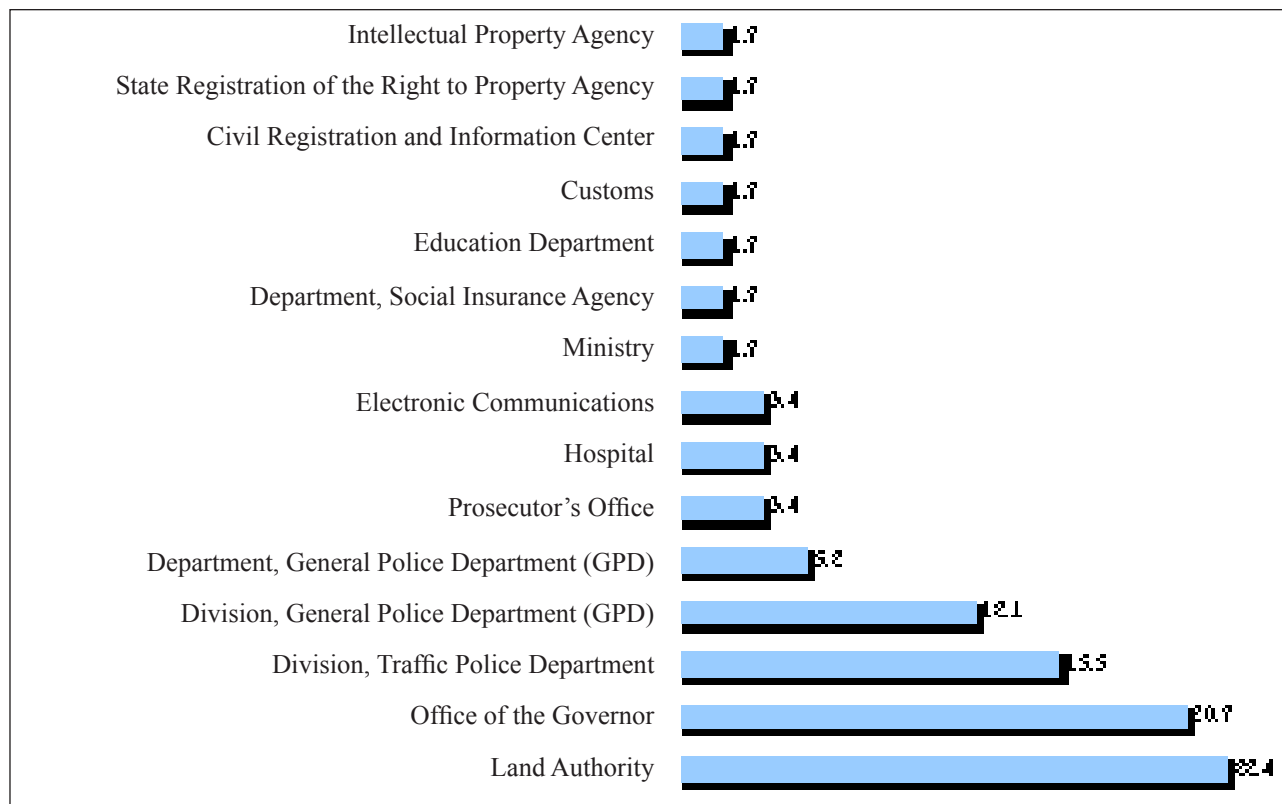
This is proven by the number of requests for dispute settlement submitted to the Civil Service Council. For instance, whereas citizens and civil servants submitted 26 requests for dispute settlement in 2004, it grew up to 133 with a sixfold increase in 2005. The Commission carried out inspection in cooperation with the Civil Service Council in January 2005 in the Offices of Governor and Citizens' Representatives' Hural, Khentii and Sukhbaatar aimags, and revealed that 38 civil servants were dismissed from civil service in October 2004 to January 2005 15 out of which were civil servants. 9 out of 30 persons newly appointed to different positions in this period didn't go through a process of selection and professional exams. Discrimination, pressure, and hindrance to work by management of business entities, in some cases, state authorities, against trade union members, activists, and those holding elective positions, still persist. This was specifically reported in the 2006 Report on Human Rights and Freedoms in Mongolia.

1.10. Right to Submit a Petition or Complaint to State Bodies and Officials for Settlement

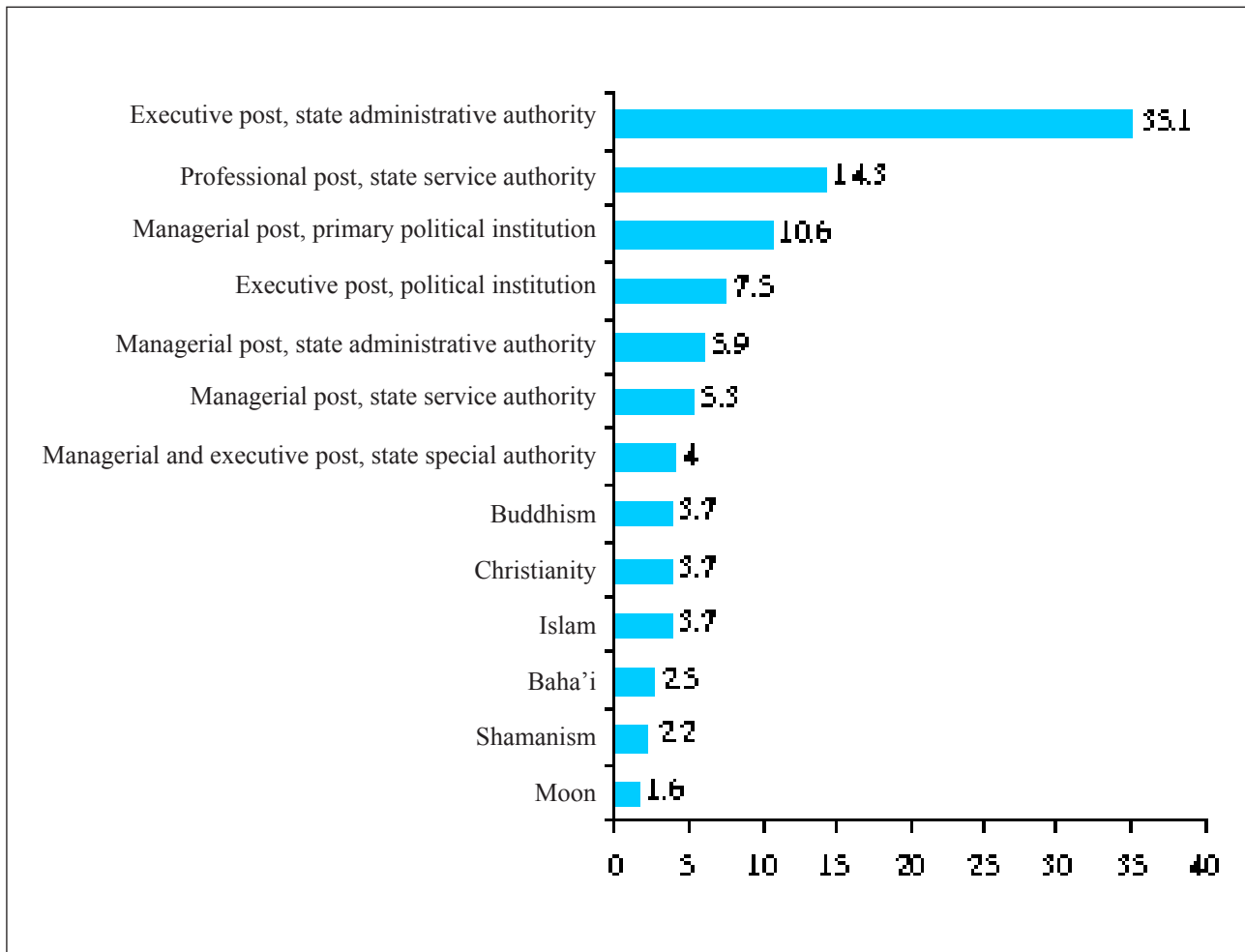
Article 16.12 of the Constitution provides that the citizen has “the right to submit a petition or a complaint to state bodies and officials. State bodies and officials shall be obliged to respond to the petitions or complaints of citizens in conformity with law.” Detailed enforcement regulation of this provision is set forth in the Law on Settlement of a Citizen’s Petitions and Complaints Submitted to State Bodies and Officials (1995). Complaints about cases of criminal nature are also regulated by the Criminal Procedure Code (2002), those related to physical damage and restoration of dignity by the Civil Procedure Law (2002), and complaints and claims lodged by citizens and legal entities to protect their violated rights deeming administrative acts illegal by the Administrative Procedure Law (2002) respectively.

Most state authorities have facilities, where they receive citizens, such as special rooms and offices, and schedules, and this ensures that citizens are received without delay and petitions and complaints settled. A decline in failures and delays in settling citizens’ petitions and complaints is the outcome of government policy aimed to eliminate state bureaucracy.

Results of a study indicate that the right to submit a petition or complaint to state bodies and officials for settlement is still violated. Shortcomings such as failures to settle petitions and complaints submitted by citizens to state authorities and violations made during the settlement revealed in the joint study conducted by the Anti-Corruption Agency (ACA) and NGO are as follows.



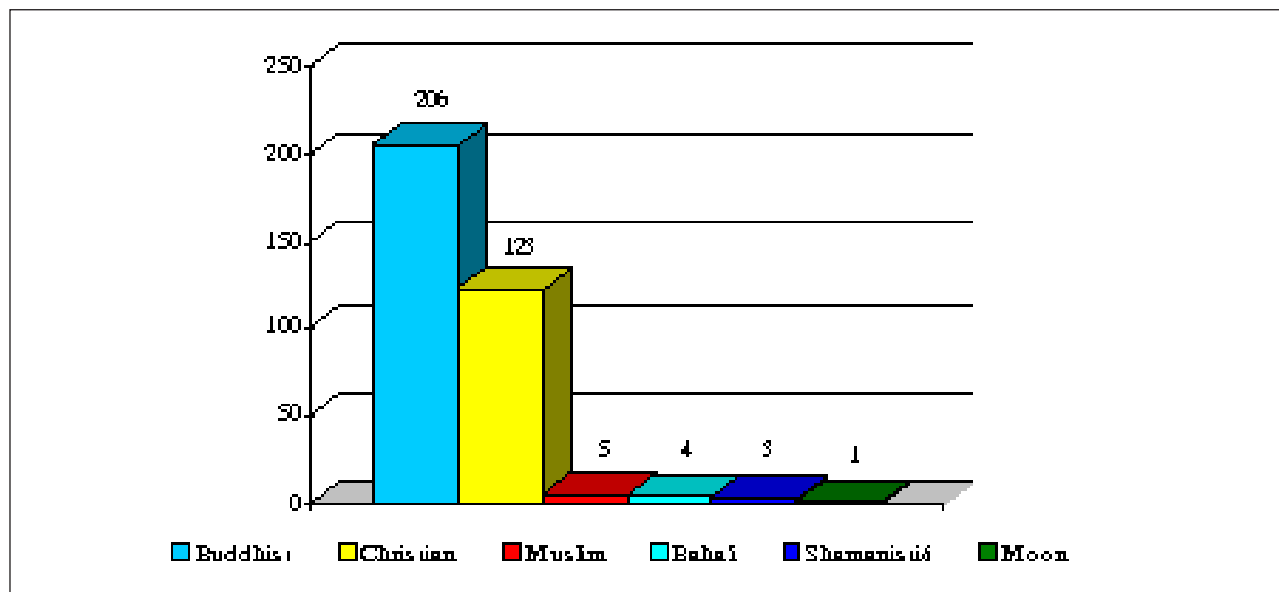
Shortcomings such as bureaucracy and redtape by some officials obliged to settle citizens' petitions and complaints expeditiously and impartially are as follows.



1.11. Freedom of Religion

Relations related to the freedom of religion is regulated by the Law on Relations between the State and Religious Institutions (1993) and regulations adopted by resolutions of citizens' representatives' hurals in the capital city and aimags. Now, there are 342 institutions in 7 religious sects registered in Mongolia 60 percent out of which are Buddhist ones.

Classification of religious institutions registered in Mongolia



According to Article 9 of the Law on Relations between the State and Religious Institutions a person willing to set up a church or temple gets it registered with the central state administrative authority in charge of legal affairs after obtaining a permit from citizens' representatives' hural in the capital city or aimags. However, there is a tendency for citizens' representatives' hurals to discriminate, pressure, and unjustified decline to register churches and temples. For instance, a Christian church operating in Jargalant soum, Tuv aimag, was destroyed, another church in Argalant soum was dissolved by the police, and activities of a kindergarten set up by funding of the Vatican Representative Office in Zuun Mod town were suspended on the grounds that they were conducting religious activities and these examples were cited in the 2002 Report of Human Rights and Freedoms in Mongolia. This situation still persists. When the NHRMCM reviewed a complaint that the Citizens' Representatives' Hural, Tuv aimag, refused to grant a permit to Christian church "Truth Congregation" without justification in May 2007 in violation of the freedom of religion, it found that the situation referred to in the complaint did arise. Consequently, it delivered the Commissioner's demand for termination of the human right violation to the Citizens' Representatives' Hural, Tuv aimag. Nevertheless, as it was ignored by the Hural, the NHRMCM filed suit with a inter-soum court, Tuv aimag, and as a result, the court imposed administrative liability on the Chairman of the Citizens' Representatives' Hural, Tuv aimag.

Regulations of granting a permit for establishment of a new church or temples adopted by resolutions of citizens' representatives' hurals in aimags and capital city a permit include a common provision to grant a permit for a religious institution for a one-year period and renew it for another year when it expires. However, there is a tendency for newly elected hurals to apply bureaucracy and redtape for granting and extension of permits after the term of office of their predecessors expires. Failure to grant a permit to conduct religious activities or granting it for a short period lead to limitation to the freedom of religion.

Article 6 of the Law on Relations between the State and Religious Institutions provides “A religious institution means a temple, church, religious school, centers, and their headquarters set up for purposes of fulfilling religious needs of believers and conducting religious rituals, meetings, and educational activities” and Article 7.7.7 “Any religious institution, monk, or priest are prohibited from attracting persons who don’t believe in their religion by offering cash and assets.” However, some officials interpret this provision in its narrow sense as the prohibition of humanitarian activities being carried out along with religious activities and vice versa and attempt to that humanitarian activities are primary activities of some religions.

Conversely, it is worth noting that some institutions force any religious belief on others and disturb social order and tranquillity of citizens.

... For instance, inspection conducted by the NHRCM in 2005 in orphanage Badamlyankhua operating in Khan-Uul District, capital city, revealed that it taught Ananda Marga religion to its children and eating meat was prohibited and children who had had meat in their friends’ homes and cafes were punished and dismissed from the orphanage. Likewise, demanding obedience to religious rituals manipulating the vulnerability of children having neither shelters nor guardians is a serious violation of the rights of the child...

Recommendation No. 22 of the UN Human Rights Committee (HRC) states that the freedom of religion should be distinguished from that of expression of religion and religious belief and no one should harm public security, social order, citizens’ health, morals, and others’ rights and freedoms when expressing his/her religious belief. However, the NHRCM disapproves of disrespect of some religious institutions for others’ rights while conducting their activities.

... For instance, complaints and information that a Christian church operating in Nalaikh District held prayer with a loudspeaker disturbing the inhabitants ...

1.12. Freedom of Conviction and Expression

The freedom of conviction is an “absolute” freedom that is or can be exercised independently. The freedom of expression is a manifestation of the freedom of conviction. A person expresses his views and opinions through speech, press, and peaceful demonstrations, and he/she shouldn’t harm public security, social order, citizens’ health, morals, and others’ rights and freedoms in doing so.

The Parliament adopted the Law on the Freedom of the Press in 1998 to ensure the right to press and prohibited adoption of laws that restrict freedoms of the media, and state censorship of public information. Moreover, with the adoption of the Law on Public Radio and Television in 2005 the National Radio and Television Authority was liquidated

and Mongolian National Public Radio and Television was established instead and state broadcasts were converted into public ones.

Despite significant measures made in terms of legal regulation like the above incidents of limitation and pressure of citizens' freedom of the press and harming of citizens' health still persist.

"Globe International" NGO recorded and documented cases of violations of journalists' rights owing to the realization of the freedom of the press in October 2005-October 2006. In this period 16 cases including threats, attempts to bribe, beatings, and rape of a female journalist, were recorded. The NGO also conducted a study on violations of the freedom of expression among journalists of five daily newspapers and 2 major weekly ones in November 2005 and it revealed that over half of the journalists were subject to threats and pressure related to their work. The journalists reported that cases such as threats, pressure from media administration, its threats by the police, and demands for publication of false corrections occurred most.

... Editor Ts, Nomin Television, based in Orkhon aimag, broadcast a program called "Watching It is Prohibited" on big privatization certificates of 9,000 employees of Erdenet Mining Corporation on June 11, 2006. The female journalist was threatened by anonymous people over the phone before and after airing the program and former director A of the brokerage firm that kept the privatization certificates of the employees of Erdenet Factory threatened her "This is a complex issue. Don't get killed for reporting stuff you don't know." Ts was beaten by anonymous people at the entrance of her apartment on July 6, 2007. They hit Ts in the chest and back with a metal tube and escaped and consequently, her ribs were broken and she concussed.

... Journalist B, Eagle Television, was beaten by anonymous people who broke his two lower front teeth while he was having lunch in a restaurant on November 10, 2005. On December 19-20 at night his car was broken and damaged. Prior to these incidents he had been researching for and preparing a series of broadcasts on corruption and illegal activities in the areas of social insurance, taxation, and intelligence ...

It is worth taking into account the fact that there is still a lack of legal regulation of obtaining of information from the State, institutions, and individuals, and protection of sources of information of journalists. A recommendation adopted by the Civil Chamber, Supreme Court, at its meeting, held on June 25, 2000, lays down that journalists are entitled to keep sources of information confidential. Conversely, journalists are obliged to protect sources of information as provided in the codes of ethics and principles for journalists. As there are no legal provisions ensuring this right, incidents such as demands, pressure, and threats for journalists for the disclosure of the sources of information occur. Journalists' disclosure of sources of information under pressure will seriously harm the safety of the informant and lead to the breach of the obligations of the media for the sake of citizens.

Whoever exercises the freedom of the press is required to fulfill his/her legal right not to harm others' rights and freedoms. It should be noted that information included in privacy is made public and, in consequence, human rights are violated, and journalists

ask personal questions with “curiosity” in public broadcasts that are not quite related to the purpose and content of issues under discussion which is a violation of ethical norms of journalists.

Another primary means of expression is a peaceful demonstration. The realization of the freedom of peaceful demonstration and assembly was included in the 2004 Report on Human Rights and Freedoms in Mongolia that recommended that the Parliament define the concept “assembly” and review the regulation of the permit application system, permit duration, and entities concerned. Accordingly, amendments were made to the Law on Demonstration and Assembly Procedures (1994) in November 2005 and not only the provision prohibiting a demonstration and assembly in Sukhbaatar Square was revoked but also the permit regulation was converted into regulation of registration. However, the amendments related to registration haven’t ensured the freedom of peaceful demonstration and assembly yet. Expression “to grant and obtain a legal permit” was replaced by term “to register and get registered” just in its form and legal regulation of forcible dispersement of a demonstration or assembly unless it is registered is still applicable and this demonstrates that in reality, the permit application system is still effective.

According to records of the Mayor’s Office, there were 5 requests made to stage a demonstration or assembly in Sukhbaatar Square in 2005, 27 in 2006, and 35 in 2007 following the amendment to the Law on Demonstration and Assembly Procedures. However, the Governor of Sukhbaatar District declined to issue permits in response to 7 out of the above requests.

For example,

- A request submitted by the Healthy Society and Civil Movement in 2006 was rejected on the grounds that it coincides with a measure being taking by the Ministry of Fuel and Energy (MoFE) aimed to reduce air pollution and demonstration to be staged in a specific route can hinder traffic and frustrate drivers, passengers, and citizens, but also cause accidents;
- A request submitted by the Association of Waste Entrepreneurs in 2006 on the grounds that it coincides with the preparation for “Silver Night” Party started in Sukhbaatar Square;
- A request submitted by citizens Z and N in 2007 on the grounds that it will be staged in a state protected area;
- A request submitted by sole proprietorships from sub-district No. 15, Bayangol District, in 2007 on the grounds that building No. 1, the Mayor’s Office, was included in state protected areas under resolution No. 250 issued by the Government in 2007;
- A request submitted by citizen S in 2007 on the grounds that demonstrations held by NGOs or associations cause chaos and illegal activities to ensure citizens’ safety respectively.

Some of the rejections have no reasonable grounds or have grounds not set forth in legislation ...

We disapprove the practice of forcible dispersement of a demonstration and assembly in the nighttime being institutionalized. There were cases of forcible dispersement and attempts to disperse demonstrations in the nighttime in 2005-2007 including 1 demonstration,

1 assembly, and 1 hunger strike leveled serious criticism at and filed demands against state authorities and officials.

Organizers of demonstrations and assemblies forget about their obligation not to harm or disturb the social order and others' rights and freedoms. Inappropriate acts of damaging assets of institutions and harming safety and health of persons fulfilling their obligations are condemned.

Although hunger strike is a mean of expression it is an inhumane act harmful to one's life and health. Therefore, as a human rights institution the NHRCM stresses that it can't promote hunger strike and participation in it. However, there is a desperate need to improve the legal regulation related to hunger strike due to a situation arisen in the society. A citizen's expression by virtue of hunger strike, sit-ins, and workers' strikes altogether can't be considered "assembly" and hunger strike is partially regulated by Article 36 of the Law on Enforcement of Decisions to Arrest and Detain Suspects and the Accused (1999), and Instructions on Medical Care During Hunger Strike adopted under joint decree A-26/10 adopted jointly by the Minister of Health and Social Welfare and Minister of Justice. There is an imminent danger that human health will be harmed and rights violated due to a lack of total legal regulation of this issue.

1.13. Freedom To Seek and Receive Information

Freedom of information is a combination of the rights to seek, receive and distribute information. Every citizen should have an opportunity to exercise the freedom of information and to provide information for its citizens, enable them to monitor state activities and exercise other rights and freedoms is an obligation of a democratic state. Numerous significant measures have been taken in ensuring the freedom of information in recent years. For instance, positive measures such as successful action taken by the state in ensuring transparency of the national budget and mining industry and that of state-funded procurement of goods and services, establishment of the ACA in 2006 and disclosure of officials' assets and income declarations, and demands filed by the ACA to state authorities for provision of information for citizens are accomplished. However, it is worth noting that the Bill on the Freedom of Information included in the agenda of the 2005 fall session of the Parliament is still pending.

The media has an important obligation in ensuring the freedom of information. There are 1,680 newspapers, 55 magazines, and 237 radios and televisions currently operating in Mongolia and the number of internet users and amount of internet services grow year by year.

However, despite achievements there are numerous incidents such hindrance of civil servants preventing media employees and interested parties from seeking and accessing information, decline to provide information, keeping information confidential not specified in legislation, and demanding permits from superior officials "not to get in trouble." For instance, the study report of "Globe international" NGO reveals numerous cases including delay caused by a specialist of the General Department of National Taxation (GDNT) in

response to a request made by a journalist willing to access information on taxes paid by the Savings Bank to the Government, the practice of prohibiting the presence of journalists in meetings of state administrative authorities and public institutions put in place in Uvurkhangai aimag, and repeated pressure exerted by an official from Umnugobi aimag on the local television employees.

Local media that obtain permits from local Offices of Governor and support from businesses operate in dependent circumstances. Dissemination of accurate and independent information is an important part of the realization of the freedom of information.

Although state authorities take measures aimed to open websites and display information on a board to ensure the freedom of information it is necessary to regularly update them and provide complete information.

The Laws on State Secret, Institution Secret, and Privacy (1995) is a restriction on the freedom to information. Article 59 of the Law on State Secret gives a detailed list of information falling into state secret. The Law on Institution Secret (1995) provides that an institution is entitled to determine its secret by itself and obliged to adopt regulations on protection of confidential information and this is inappropriate limitation of the freedom of information. There is a need to examine whether to keep information falling into state secret confidential, reduce the number of information in the list, and inact a list of information falling into institution secret.

2. Reporting of Human Rights Treaties

The NHRCM made a report on Mongolia's inadequate implementation of its obligations set forth in international human rights agreements and conventions and recommendations to improve the implementation of international agreements and submitted them to the Parliament in 2003.

Mongolia has made progress in the past five years in publishing Mongolia's international treaties in bulletins "State News" and applying them in court practices.

However, Mongolia's performance of its obligations to bring national legislation in compliance with provisions and principles set forth in international agreements and report the implementation thereof to the related UN committees and ILO Committee of Experts is inadequate.

Therefore, this report sheds light on the issue of reporting of the implementation of international human rights agreements.

Mongolia has expressed its agreement to follow 6 general agreements²³ and 4 optional protocols²⁴ of the UN on human rights.

In conformity with provisions stipulated in the covenants and conventions the State Parties are obliged to report to the UN committees²⁵ on measures taken to ensure the rights guaranteed by the agreements.

Besides the conventions the State Parties are obligated to report on the implementation of the optional protocols of the Convention on the Rights of the Child.

However, it should be noted that the Government hasn't taken swift action to file its reports with the related UN committees yet although the deadline for reporting of the implementation of international agreements other than the Convention on the Rights of the Child and its optional protocols has expired for 1-6 years.

The pending reports on the implementation of the general human rights agreements on the side of the Government of Mongolia are as follows.

²³ Mongolia ratified the International Convention on the Elimination of All Forms of Racial Discrimination was ratified in 1969, International Covenant on Civil and Political Rights in 1974, International Covenant on Economic, Social and Cultural Rights in 1974, Convention on the Elimination of All Forms of Discrimination Against Women in 1981, and Convention on the Rights of the Child in 1990 respectively and acceded to the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 2000.

²⁴ Mongolia acceded to the First Optional Protocol of the International Covenant on Civil and Political Rights and ratified the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women in 2001 and Optional Protocol of the Convention on the Rights of the Child on the Sale of the Children, Child Prostitution, and Child Pornography and Optional Protocol on the Involvement of Children in Armed Conflict in 2002 respectively.

²⁵ Human Rights Commission, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of All Forms of Racial Discrimination, Committee Against Torture, and Committee on Child Issues

Agreement	Final report	Reporting procedure	Delivery date	Delayed date ²⁶
International Covenant on Civil and Political Rights	Report No. 3	To report within 1 year following its conclusion and after that every 5 years or every time it is requested	October 31, 2007	5 years
International Covenant on Economic, Social and Cultural Rights	Report No. 4	To report within 1 year following its conclusion and after that at a special schedule	June 30, 2007	4 years 9 months
Convention on the Elimination of All Forms of Discrimination Against Women	Report No. 11	To report within 1 year following its conclusion and after that every 4 years	February 2, 2007	5 years 11 months
International Convention on the Elimination of All Forms of Racial Discrimination	Report No. 19, 20, and 21	To report within 1 year following its conclusion and after that every 2 years	February 3, 2007	5 years 11 months
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Report No. 1	To report within 1 year following its conclusion and after that every 4 years	February 23, 2007	11 years

According to Resolution No. 17 adopted by the Government in 2007 on “Action Plan on the Implementation of the National Human Rights Action Program for 2006-2007” it is planned to submit National Report No. 5 on the Implementation of the International Covenant on Civil and Political Rights in the first quarter 2007, National Report No 4 on the Implementation of the International Covenant on Economic, Social and Cultural Rights in the second quarter 2007, and National Report No. 1 on the Implementation of the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment of Punishment in the first quarter 2007 respectively to the related UN Committees.

However, this work is still outstanding. A working group was set up under a decree of the State Secretary of the Ministry of Justice and Home Affairs (MoJHA) to prepare relevant reports on the Implementation of the International Covenant on Civil and Political Rights and Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, but the work of the working group is still quite slow.

No significant action has been taken with regard to development of National Report No. 4 on the International Covenant on Economic, Social and Cultural Rights, and National Reports No. 19-21 on the International Convention on the Elimination of All Forms of Racial Discrimination.

²⁶ As of March, 2008

It should be noted that although National Report No. 5 on the Convention on Elimination of All Forms of Discrimination Against Women was filed with to the UN Committee in 2007 the submission of National Report No. 6 has been pending for 5 years and 6 months.

The way of writing reports on the implementation of international human rights treaties is to enumerate legal regulation adopted and measures taken in respect of the issues and they often don't reflect challenges faced and violations made and solutions to them accurately. In addition, collaboration with the NHRCM and civil society in getting comments on such reports is inadequate.

We believe that action aimed to build capacity of members of working groups who draft Government reports, include obligation to draft reports into functions of ministries and agencies and terms of reference for officials, and publicize agreements and conventions in connection with drafting of reports, will be of vital importance to further implementation of such agreements and conventions.

The Government of Mongolia ratified a total of ILO 16 Conventions 8 out of which are general conventions.²⁷ Additionally, the Government ratified 2 out of 4 conventions²⁸ falling into the category of significant ILO conventions. The State Parties are obligated to submit reports on the implementation of 8 general conventions and 4 significant conventions every 2 years and that of other conventions every 5 years to the ILO Committee of Experts under a new reporting system being applied since 1996.

The Government of Mongolia was obliged to file reports on the implementation of 9 conventions with the Committee of Experts, namely, Report No. 1 on the Implementation of the Convention on the Elimination of the Child Labor Exploitation, in 2007, but it hasn't performed this obligation yet. The Government of Mongolia hasn't responded to the Committee of Experts which requested submission of its reports on the implementation of the Right to Organize and Collective Bargaining Convention No. 98, Equal Remuneration Convention No. 100, Discrimination (Occupation and Employment) Convention No. 111, Employment Policy Convention No. 122, Minimum Age (Underground Work) Convention No. 123, and Minimum Age Convention No. 138, and Worst Forms of Child Labor Convention No. 182.

Although the MoSSL took action to get instructions, formats, and templates translated into English, and post them on the website, no specific measures on the preparation and submission of the reports have been taken. Moreover, Mongolia needs to be committed

²⁷ Mongolia ratified the Forced Labor Convention No. 29 in 2005, Freedom of Association and Protection of the Right to Organize Convention No. 87 in 1969, Right to Organize and Collective Bargaining Convention No. 98 in 1969, Equal Remuneration Convention No. 100 in 1969, Forced Labor Convention No. 105 in 2005, Discrimination (Employment and Occupation) Convention No. 111 in 1969, Minimum Age Convention No. 138 in 2002, and Convention on the Elimination of Child Labor No. 182 in 2001 respectively. These conventions are included in the general ILO treaties.

²⁸ They include the Labor Inspection Convention No. 81, its Optional Protocol or Employment Policy Convention No. 122, and Tripartite Consultation (International Labor Standards) Convention NO. 144. The Government of Mongolia ratified the Employment Policy Convention No. 122 in 1976, Tripartite Consultation (International Labor Standards) Convention No. 144 in 1998 respectively from among the above conventions.

to reporting on the implementation of ILO conventions and make efforts to perform its obligation under the international agreements.

In conformity with the ILO procedures the Government of the State Party is obliged to file new conventions and recommendations adopted by the ILO with its supreme legislature within a month following the adoption thereof.

This will help to provide an up-to-date information for lawmakers on international legal instruments on labor and employment, assist them in policy-making, and facilitate ratification of such conventions. The Government hasn't submitted 11 conventions and 12 recommendations adopted by the ILO to the Parliament of Mongolia yet.

These conventions and recommendations address pressing issues in Mongolia such as ensuring of industrial safety in the mining industry, determination of occupational diseases, coordination of activities of intermediaries for workers overseas, creation of jobs in small and medium-sized enterprises and therefore, it is important to refer to the above conventions and recommendations to draft national legislation.

Recommendations made based on the implementation of human rights and freedoms set forth in Article 16 the Constitution of Mongolia and reports on the practice of reporting of the implementation of the human rights conventions.

1. To enact legal regulation that ensures disclosure of the date of execution of capital punishment and transfer of the corps to his/her family members following its execution. This is because the date of execution is currently confidential and transfer of the corps isn't allowed to his/her family members and this leads them to experience psychological pressure and inhuman treatment;
2. To increase the capacity of the Central Cleaning Facility, Ulaanbaatar;
3. To ensure that every family and institution sort out and dispose of their waste, support recycling enterprises, and create consolidated dumpsites that meet international standards;
4. To modernize equipment of food laboratories in central and local areas and increase the capacity and train the personnel;
5. To pursue policy to support domestic production of essential food products;
6. To regulate the issue on additional remuneration and work hours for night shift workers by the Labor Law taking into account a growth in the number of night shift workers with industrial development;
7. To take action to eliminate unpaid forced labor of detainees in pre-detention and sobering-up facilities;
8. To address the issue on the rights of the elderly, promote the integration in society, and establish recreation facilities, and support activities of nursing homes;
9. To set up a special nursing home for the mentally disabled;
10. To review provisions like "public inspection" set forth in Article 50.1.1 of the Law on Health, and "The Government shall bear fees for health care and health service provided by state-owned health organizations for mothers and infants" in Article 35 and revise them to determine means of public inspection and ensure equality of opportunity for private health organizations;
11. To ensure that detainees and disabled participate in the 2008 parliamentary and local elections and take step-by-step action to ensure the right of Mongolian citizens residing overseas to vote;
12. To amend the Law on the Freedom of the Press to ensure protection of sources of information for journalists;

13. To lead the Parliament to adopt the Bill on the Freedom of Information immediately;
14. To ensure and monitor the enforcement of Resolution No. 39 adopted by the Government in 2008 on the implementation of human rights agreements and obtain comments from the NHRCM on reports on the implementation of human rights

CHAPTER TWO

RESULTS OF ASSESSMENT OF SPECIFIC RIGHTS

Worst Forms of Child Labor

Realization of the Rights of the Victim

**Realization of the Rights of Mongolian Citizens
Working in the Republic of Korea**

- **International Standards on the Rights of
Women and Comparative Study of National
Legislation**

1. Worst Forms of Child Labor

1.1. General Situation

The population of Mongolia reached 2,373,500 in 2000 and average increase per year was 1.4 percent. Children under the age of 18 made up 46.6 percent and young persons aged between 19 and 24 12.1 percent of the population.

Whereas 36.3 percent of the population was below the poverty line in 1990, it reached 35.6 percent in 2000, 36.1 percent in 2005, and 32.2 percent in 2006.²⁹ The poverty rate decreased from 30.3 percent to 27 percent in the capital city and from 43.4 percent to 37 percent in rural areas in 2003-2006. Mongolia's human development index³⁰ reached 0,691 in 2006 and as a result, the country qualified for "satisfactory" human development.

Migration from rural areas to cities grew rapidly in the course of economic transition and in consequence and growth in the number of the urban population has brought about some negative consequences. For instance, complex situations such as unemployment, increasing poverty rate, growing number of street children, school dropout, child labor, in particular, worst forms of child labor are in place.

The National Statistical Office carried out a study on child labor in 2003-2004 and 2006-2007. Results of the study indicate that the number of economically active or working children hasn't dropped yet. Whereas 68,580 or 10.1 percent of children aged 5-17 worked in 2002-2003, the number grew up to 71,330 or 11.5 percent in 2006-2007 and there was a 1,4-percent increase in the number of working children.

89.4 percent of these children reside in rural areas, 10.6 percent in urban areas 60.3 percent make up boys and other 39.7 percent girls.

No national data and consolidated studies with respect to children experiencing the worst forms of child labor nationwide are available. However, the National Board for Children (NBC) reported that about 1,200 children were experiencing the worst forms of child labor nationwide in 2008. Economically active children work mostly in informal economy beyond the scope of legal regulation.

Mongolia as a state party to the UN Convention on the Rights of the Child and the ILO Convention on the Elimination of the Worst Forms of Child Labor No. 182 takes many measures to restrict child labor and eliminate the worst forms of child labor but specific issues still exist. Hence, the Government needs to come up with promising policy and concepts to accomplish its objective to eliminate the worst forms of child labor.

²⁹ Second National Report on the Implementation of the Millennium Development Goals, Summary, 2007, p. 4

³⁰ Human Development Index

The NHRCM carried selective studies on the worst forms of child labor as child labor, in particular, the worst forms of child labor, becomes a negative phenomenon that has bad effects on health, morals, and safety of children, the future of the country and hinders the right to education and self-development.

1.2. International Instruments and National Legislation on the Worst Forms of Child Labor

Mongolia is a state party to about 10 international conventions on the rights of the child adopted by the UN and ILO. For instance, it is committed to following the principles of UN international treaties such as the Convention on the Rights of the Child, its Optional Protocol on the Sale of the Children, Child Prostitution, and Child Pornography, and Optional Protocol on the Involvement of Children in Armed Conflict, and ILO international treaties like the Minimum Age (Industry) Convention No. 59, Minimum Age (Underground Work) Convention No. 123, Convention on the Elimination of the Worst Forms of Child Labor No. 182, and Minimum Age Convention No. 138 respectively.

Thus, Mongolia is a state party to many international treaties but some regulation isn't enacted in national legislation.

The issue on the minimum age for child labor is a key principle in international instruments on the rights of the child. The minimum age for admission to mining or underground work is 15 in the Convention No. 123, minimum age for admission to industry is 16 in the Convention No. 59, and minimum age for admission to employment is the age qualified for secondary education in the Convention No. 138, and in any case it shouldn't be below 15, and it should be 18 for labor that can have bad effects on health, safety, and morals of adolescents.

Regulation of labor for minors set forth in Article 8 of the Labor Law and work hours for minors set out in Article 71 contradict with some provisions of the above treaties and conventions. For instance, children aged 14-15 are allowed to work under the Labor Law but according to the Convention No.138 the minimum age for admission to employment is 15. Enactment that allows employment of children aged 14-15 based on employment agreement consented to by their parents isn't considered adequate protection of the rights of the child in the context of inadequate knowledge of parents about child labor, unemployment, poverty, and shortage of jobs. Thus, the provision on the working age set out in the Labor Law needs revision.

According to the Convention on the Elimination of the Worst Forms of Child Labor No. 182 and Minimum Age Convention No. 138 work that can have bad effects on health, safety, and morals of children falls into the category of the worst forms of child labor and a competent authority shall determine the minimum age for admission to such work after bringing it in compliance with national legislation and reaching a consensus with employers and trade unions but the minimum age for admission to such work of hazard works is 18.

There are 3 criteria in ILO instruments in terms of work that can have bad effects on health, safety, and morals of children. Mongolia enacted 2 criteria prioritizing intellectual development and health but left out the remaining criteria related to morals of children.

Article 3.11 of Recommendation No. 190 on the Implementation of the ILO Convention No. 182 provides that the worst forms of child labor are as follows and they are subject to criminal liability.

1. All forms of slavery and forced or compulsory recruitment;
2. Sale and trafficking of children, debt bondage, and serfdom;
3. Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
4. Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

The concept of the recommendation is set forth in national legislation. As per Article 121 of the Criminal Code forced and compulsory child labor is considered a criminal act and accused is subject to a fine and 4-year imprisonment. Nevertheless, no sentences have been carried out under this Article yet. There are no provisions in national legislation that deems any form of slavery as a crime.

Article 113 of the Criminal Code had considered purchase and sale of humans a criminal act and specified purchase and sale of children as an aggravated crime. The Law on Amendment of the Criminal Code (2008) replaced the name of Article 113 with “human trafficking” thus, releasing entities who has purchased a human from criminal liability. Although the lawmaker might have considered the fact that in most cases, purchasers reside abroad, this has turned out to be the same regulation as that of releasing a briber from criminal liability.

No regulation of considering debt bondage and serfdom of children a crime is available under the Criminal Code. There is no denying that debt bondage of children may happen in the context of high rates of unemployment and poverty in society.

Article 123 of the Criminal Code specifies that preparation, dissemination, trafficking, demonstration, and cross-border trade of publications, pictures, videos, and other items advertising pornography shall be considered a crime. The maximum age that is 16 under Article 123.2 conflicts with ILO Recommendation No. 190.³¹

In compliance with Article 115 of the Criminal Code, involving minors in drinking, drug abuse, vagrancy and beggary prostitution, is a criminal offence. Such a crime committed by parents and guardian, obliged to bring a child up, forcibly or posing a threat is an aggravated criminal act. Moreover, establishment and financing of brothels and acting as an intermediary for and assisting in prostitution are subject to criminal liability under Article 124 of the Criminal Code. We believe that regulation of liability of culprits subjected minors to prostitution is adequate.

³¹ The age of 18 under the recommendation

Illegal preparation, acquisition, storage, transportation, and sale of drugs and narcotics is subject to criminal liability and involving minors in such criminal acts is an aggravated circumstance under Article 192 of the Criminal Code. It is necessary for the Supreme Court to issue interpretation on application of this provision in compliance with the worst forms of child labor.

ILO Recommendation No. 190 suggested criminal, civil, and administrative liability be determined immediately, special checks be made for any organization that has subjected children to the worst forms of child labor and if such violations still continue it be suspended temporarily or terminated. There is no regulation in the Criminal Code on liability of business entities, organizations, and officials in violation of legislation related to child labor, in particular, the worst forms of child labor, and termination of activities, and compensation for victims.

Article 141.1.6 of the Labor Law provides “If an officer has required minors to do work that is prohibited to be performed by them, or to lift or carry loads exceeding the prescribed limits, or has required an employee under the age of 18 to work in a workplace that adversely affects his mental development or health, or in abnormal working conditions, or compelled them to perform overtime work or to work on public holidays or weekends, that officer shall be imposed a fine from Tg 15,000 to Tg 30,000.” It should be noted that this fine is much lower than that for violations of other provisions of the Labor law.

A list of prohibited jobs for minors was adopted under decree No. 166 issued by the Minister of Health and Social Welfare in 2000. The list includes over 300 jobs falling into 17 types but fails to cover all jobs that can have bad effects on safety and morals of children and therefore, it should be revised.

1.3. Criminal Situation of Child Trafficking, Sexual Exploitation, Child Pornography, and Forced Labor

Use of a child for prostitution, for the production of pornography or for pornographic promotion is a serious criminal offence against children. Article 115 of the Criminal Code considers involving minors in prostitution a crime and determines criminal liability for it. However, the number of persons punished under this Article is comparatively low. For instance, court records show that 1 person was charged with this crime under Article 115 of the Criminal Code in 2005 and another one in 2006 respectively.

... Citizen A from Darkhan-Uul aimag was charged with a criminal act of engaging girls in prostitution since 1997 and sentenced under Article 115.3 of the Criminal Code in 2005.

... Citizen D from Zamiin-Uud soum, Dornogobi aimag, took E along with minor G across the border to the PRC by deceiving them and forced and acted as an intermediary to engage them in prostitution for which he was sentenced under Article 115.1 of the Criminal Code ...

According to unofficial police records, about 1,600 prostitute themselves in streets, Ulaanbaatar, and about 1,000 abroad, about 400 in karaoke bars, over 200 in saunas and massage parlors totaling about 2,300 women with duplication¹. The number of girls proved to engage in prostitution during inquiry and investigation and police campaigns reached 93 in 2005, 156 in 2006 and 127 in the first 9 months 2007. In addition, according to reports of the Criminal Police Department, the number of minors who got administrative liability on the grounds that they prostituted themselves reached 380 in 2005, 412 in 2006, and 426 in 2007 respectively and this indicates an increasing growth in the number.

The media broadcast that about 200 hotels, about 700 bars and night clubs, about 130 saunas and massage parlors, and about 50 karaoke bars operating in Ulaanbaatar promote prostitution explicitly and implicitly and in most cases collaborate with each other and this isn't unjustifiable. Some hotels, bars, and saunas had been arranging prostitution and in consequence, they were investigated by the police.

54 criminal cases were filed on the grounds of the arrangement of prostitution in 2002-2007 and 26 persons have been investigated for such a crime in the past 3 years and it indicates that that conditions for sexual exploitation of children have already been created.

State authorities and NGOs have conducted numerous studies on girls subjected to prostitution and sexual exploitation in Mongolia. Study results show that the average age of girls who had sexual intercourse was 14.4 and however, they also state that there are quite a number of cases of sexual intercourse girls aged 8 had. A study on the situation of first sexual intercourse of girls revealed that 45.5 percent responded that they had first sexual interaction with peers, 36.1 percent with stepfathers and their children, 18.2 percent with vagrants or strangers, and 16.4 percent at will to get money.

Girls who have wandered around households or child-care homes for years, who come from families migrated from rural areas to the capital city or poor ones, who dropped out of school, who are victims of domestic violence, who work in markets, whose parents divorced, and who have stepfathers are subjected to sexual exploitation more. There is serious concern that most offenders who exploit children sexually are sole proprietors working in markets, street adults, female peers, and alcohol addicts.

... E aged 51 resides in suburban ger district with her mother and stepfather. In her mother's absence, her stepfather and his son raped her. Following this incident E had to live on the streets. She is currently living in the child residence identification and care and service center, General Police Department (GPD).

... As 14-year-old Ts's mother died when she was young she lived with her father. Her father's friend G, frequent visitor to her home, raped her after threatening "your life would end without my help so you must sleep with me." This incident went on and on in her father's absence. As a consequence, Ts escaped him and started wandering outdoors. She is also living in the child residence identification and care and service center.

Study carried by Adolescence and Development Center NGO ...

According to studies it is common for prostitutes, former prostitutes, female peers, manhole boys, individuals operating pay phones, hotel staff, and taxi drivers to be entities who subject girls to sexual exploitation.

... In the course of one inspection the State Investigation Department discovered in 2008 that adult B arranged prostitution and involved N aged 17 in this act so that he/she can collect fees from prostitutes and the case is currently under investigation ...

Commercials and advertisements beyond control contribute to sexual exploitation. “Mongolian Women’s Foundation” NGO and Sociology and Social Work Department, National University of Mongolia (NUM), conducted a surveillance study on the current situation of the pornographic advertising in the media in 2007. The study selected 1 daily newspaper, 2 newspapers representing the free press, National Public Radio and Television, capital city channels like C1, TV8, and TV Chat and monitored them and found that pornographic advertising of C1 made up 11.02 percent of its total 1,680-minute broadcasting and TV8 – 88.97 percent of its total 13,560-minute broadcasting, and over 50 percent of TV Chat viewers were aged 14-24.

Organizations such as the Demographic Training and Research Center, NUM, and Right to Gender Equality Center conducted a study among 91 prostitutes, both girls and women, living in Ulaanbaatar, Darkhan, Zamiin-Uud, Dornogovi aimag and Havgir port, Dornod aimag in 2005. The interviewees responded that they prostituted themselves due to financial hardship, unpleasant family life, school dropout, parents’ divorce, and sexual harassment. The youngest one was aged 12 and over 60 percent went into prostitution at the age of 18 or under. Half of the girls and women prostituted themselves on the streets and one third in hotels, bars, and saunas and gained 84.6 percent of the income for themselves. Nonetheless, 46 percent of the girls aged 14-15 prostituted themselves on the streets and 8 percent in nightclubs and retained 84.6 percent of the income were gained by intermediaries. In most cases the girls found clients through intermediaries and in consequence, they got payments from them. For instance, all the girls aged 14-15 and 53.6 percent of those aged 16-18 prostituted themselves through intermediaries.

12 cases of the crime “subjection to prostitution and arranging prostitution” set forth in Article 124 of the Criminal Code were committed in the first 9 months in 2004-2007 7 out of which were rescinded and remaining 5 were transferred to the prosecutors for accusatory statement. Whereas 46 and 61 persons were convicted of the crime “raping a minor under the age of 14” specified in Article 126.3 of the Criminal Code in 2006 and 2007, 36 persons in 2006 and 32 persons were sentenced for the crime “raping a minor” set out in Article 126.2.4 of the Criminal Code in 2007. The number of such crimes tends to grow increasingly.

... U aged 15 who washed counters to make a living in Khuchit Shonkhor market lived with her sick mother and unemployed brother. When she was performing her work 3 men told her “if she had sexual intercourse with them, they would buy her a cellular phone.” She consented. However, the men escaped without buying her a cellular phone. She felt pain a few days later and when she saw a doctor it was found that U had caught a STD.

Survey of “Tegsh Tur” Center NGO ...

Child Trafficking The 2003 Report on Human Rights and Freedoms in Mongolia stressed that conditions are being provided for trafficking of women and children and sexual exploitation and recommended that relevant state authorities address this issue. However, developments in society indicate that the situation deteriorates.

Groups most vulnerable to human trafficking include prostitutes, in particular, minors, poor and street children, and victims of domestic violence.

The situation of street children is a concern. The GPD child residence identification and care and service center houses street children for 2 weeks during which they identify their residences and transfer them to parents or guardians or child-care homes. The center received 1,128 children aged 3-16 in 2006 (207 girls and 921 boys) and 1,067 children in 2007 (157 girls and 910 boys) and transferred to relevant places. About 1,450 children lived in 40 child-care homes operating in the capital city in 2007.

The police recorded 72 street children in 2005, 58 in 2006, and 50 in 2007 respectively. There are 50-67 children regularly living in manholes in the capital city but the number varies from season to season. 99 street children living in heating rooms, entrances, basements, and markets were registered during “Care 2008” campaign jointly mounted by the CPD Public Relations Division (PRD) and National Board for Children in 2008.³² A NGO study report concluded that a decline in the number of street children in recent years is associated with cross-border human trafficking.

According to the 2007 court statistics, 3 people were convicted of human trafficking. A number of cases are also under investigation.

... G is under investigation on suspicion of cross-border trafficking of B and Ts for prostitution by deception in July 2007. In the course of the investigation he testified that he had planned to sell the girls for 1,500 RMB each to a Chinese.

... Citizen of Sainshand soum, Dornogovi aimag, U was being investigated for alleged sale of her baby for 15,000 RMB in 2006 she gave to after she married to a citizen of the PRC and escaped the investigation.

... The NHRCM was reported that E aged 17 taking a beauty care course in Jin, Hainan province, PRC, was subjected to forced labor, beaten, and bullied by the receiving party.

³² Issue No. 54, “Daily News” Newspaper, March 6, 2008

... A 17-year old daughter of a Mongolian woman who married to a Chinese, Ulaantsav province, PRC, was taken to Bugat, Inner Mongolia, on the pretext of marrying her to someone else in 2006 but she was sold to others and thereafter, she escaped ...

There are many minors among those disappeared.

... The Directors of the CPD and Capital City Police Department (CCPD) stated in a television interview that 149 disappeared people aged 14-25 were recorded in 2007-2008 141 out of which were found but 8 were still missing ...

There is a need to improve inspection of adoption of children, in particular, Mongolian children by foreigners. 171 children were adopted by citizens of 13 countries in 1999-2007 151 out of which have been adopted by 149 families in total since the Office of Foreign Citizens and Naturalization (OFCN) was formed (in May 2001-November 2007). The sex ratio of the adopted children is basically the same. In some cases one family adopted more than one child.

The adoption of Mongolian children by foreigners is regulated by the Convention on Protection of Children and Cooperation on Inter-Country Adoption of Children ratified by Mongolia in 1998, Family Law (1999), Law on the OFCN adopted by 2007 Government Resolution No. 71, and Regulation on Adoption of Mongolian Children by Foreigners” adopted by joint decree 100/32 of the Minister of Justice and Home Affairs and Minister of Social Safety and Labor.

As provided for in the above legislation a foreigner adopted a Mongolian child is obliged to ensure that the child grows up normally, obtains education, and has his/her rights protected, let the child know about his/her homeland and his/her biological parents, if necessary, and report to the OFCN on the child’s health and growthd on a semi-annual basis at the age of 0-3, on an annual basis at the age of 4-8, and on a semi-annual basis at the age of 9-16. Moreover, the Office has the obligation to submit detailed information on the adopted child and parents adopted him/her, to the Embassies and Diplomatic Representative Offices of Mongolia and specific officers from the Embassies, MoSSL, and OFCN are obliged to see the living conditions of the child in person. However, the MoSSL and OFCN declined to disclose adoption-related information on the grounds that it is “confidential.” Thus, it is impossible to monitor the exercise of the legal obligations of foreigners adopted children and relevant state authorities.

A system that will help monitor the number of children going abroad and returning home that increasingly grows is needed. According to the report of the General Department for Border Protection (GDBP) report, 1,509 out of 38,054 children who left the country haven’t returned yet. There is no denying that there is child trafficking in such situations.

1.4. Child Labor in Urban Areas

A study on the worst forms of child labor assessed forms of child labor in urban areas in detail, in particular, nature and consequences of the worst forms of child labor.

Comprehensive statistics aren't available on the children working in the formal economy in rural areas at the national level, and however, the SSIA inspection conducted in public offices in the capital city and some aimags in 2004 found that 109 children under the age of 18 were employed in such offices. According to the 2007 report of the Capital City Specialized Inspection Department (CCSID), there were 117 people experienced industrial accidents 4 out of which were children under the age of 18.

There are about 6,950³³ children³⁴ working in the informal economy in the capital city, aimag centers, soums, and other settlements 4,600 out of which work in the capital city. In terms of the nature and working conditions 24.3 percent of children working in the informal economy or about 1,200 children³⁵ are subjected to the worst forms of child labor. According to the reports submitted by aimag child centers³⁶ 2,334 children were working in the informal economy in December 2007.

Main types of child labor in the informal economy in urban areas include retail (food, newspapers, magazines, and other accessories), carrying load in hands and on backs, pulling and pushing carts, collection of garbage, sawing and chopping firewood, operating pay phones, washing and guarding cars, car repair, working in public catering facilities, fee collection in public transportation, performance and entertainment in the circus and arts and fashion shows, cleaning, acting as a housekeeper, and babysitting.

However, child labor is quite common in brick, construction, sewing, textile, and timber industries, and hotels in the formal economy. A few children contract to work in the media and artistic and cultural institutions under supervision. Working in dumpsites and markets, carrying heavy load, and preparing meat from among work they perform fall into the worst form of child labor and such labor should be prohibited immediately. Moreover, work that isn't common but for extended hours and work that is performed in normal conditions but in the nighttime are also included in the worst forms of child labor.

There are many specific types of child labor in urban areas and however, they are similar in terms of impacts they have on the safety, health, and education of children. Children working in institutions other than artistic ones and most of their parents consider child labor inappropriate and however, they still let their children work owing to poverty

³³ The number is based on the comparison of the data from child inspectors, aimag police departments, and aimag child centers, and findings of the 2006 SSIA report and 2006 study report on child labor in the informal economy in the capital city and selected urban areas, ME consulting company.

³⁴ The number of children working in agriculture and mining industry and those subjected to sexual exploitation and pornographic advertising are excluded.

³⁵ The number of children who work for extended hours and who work in harsh working conditions and those who engage in labor exploitive in essence and having bad effects on their bodies, health, and mentality, and violating the right to education is deducted from the number of children working in Ulaanbaatar.

³⁶ 20 aimags other than Bayankhongor

and low living standard. There is a risk that the safety and health of children would be harmed while at work or on the way to work and back home regardless of types of work.

Child Labor in Dumpsite Children work in 3 consolidated dumpsites in Ulaanbaatar such as Tsagaandavaa, Morindavaa and Ulaanchuluut. Moreover, there are many children collecting garbage in apartments in downtown areas, big restaurants, and service industries. A study targeted on Ulaanchuluut dumpsite was conducted to examine the conditions of children who collect garbage for a living.

According to the study, there were 387 persons collecting garbage for a living in December 2006 82 out of which or 21.1 percent accounted for children under the age of 18.³⁷ Conversely, approximately 120-140 children were working in Ulaanchuluut dumpsite in August 2007. There were also 18 families living in shelters in the dumpsite.

An average age of the children working in Ulaanchuluut dumpsite was 14 and sex ratio was about the same. 83.5 percent of the children came from 3-10-member families. About 80 percent of the families earned a monthly income of Tg 30,000-100,000. Given the correlation between the household income and number of family members 92.9 percent of the families of the children collecting garbage in Ulaanchuluut dumpsite turned out poor and desperately poor.³⁸

96.4 percent of the working children reside in ger districts and 58.8 percent of their families are migrants from rural areas. 32.9 percent of children live alone or with either of their parents.

60 percent of the children interviewed don't go to school. They explained that the reason they don't go to school is that they can't afford to cover school-related expenses and are in breach of migration procedures. The study shows that 62.3 percent of the children are willing to go to school and 25.8 percent aren't interested in it.

44.7 percent of the children work to scratch a living on a daily basis, 22 percent of children to feed their families, and 11.7 percent as demanded by their parents.

The above children work in smoky, foggy, and dusty conditions polluted with intolerably unpleasant smell. Moreover, in summertime they are always in danger of experiencing sudden fires and falling into ruins and collapsing waste. There are many children injured and even died while working in the dumpsite.

... A garbage truck driver unloaded waste over an 11-year old boy who worked in Ulaanchuluut dumpsite while he was collecting garbage along the dam surrounding the dumpsite and in consequence, he got weighted down and died in June 2005. No suit was filed against the culprit and boy turned out guilty ...

Ulaanchuluut's dumpsite coordinator T

³⁷ Red Cross Council, Ulaanbaatar

³⁸ The household income per capita is Tg 30,000 or below 40 percent. The poverty is established under decree No. 133 of the Chairman of the National Statistical Office (NSO).

Most working children unload waste from garbage trucks and collect garbage. A few children unload waste from garbage trucks for money bargaining it with garbage truck drivers. For instance, 86.6 percent of the children interviewed collect waste, 11.7 percent unload waste from garbage trucks, and 11.7 percent get paid for unloading waste from garbage trucks.

The majority of the children work all seasons all year round without a specific time limit. 28.2 percent of the children work 7 days per week, 14.1 percent 6 days per week, 17.6 percent 5 days per week, and 24.7 percent any day during a week, and 17.6 percent work over 8 hours per day and 72.9 percent without a specific time limit. 44.7 percent of the children have been performing this type of work for 2-3 years, 11.8 percent for 4-6 years, 21.1 percent for a year, and 11.7 percent for over 7 years. This indicates that the children work in the dumpsite on a regular basis. Since there are no drinking water wells and stores available around the dumpsite the children have no access to drinking water and some of them consume leftovers found in the dumpsite.

Thus, an average daily income of the children working in the dumpsite is Tg 3,000 and 49.4 percent spend it on essential food for their families and 44.7 percent give it to their family members. A contribution made by the children to the household income depends on a household structure but on average, they generate 20-40 percent of the household income.

When they were asked during the study what work equipment they used for work, 96.4 percent responded that they used it but they referred to sacks and iron hooks essential for work. Conversely, 52.9 percent answered that they used facemasks and gloves to protect their health.

Dumpsite child labor harms the safety and health of the children. As far as the most common problems children working in dumpsites encounter they get injured, verbally abused, beaten, exhausted, and in some cases, fall off garbage trucks, get weighted down with waste, and get run over by garbage trucks.

... Girl N fell off a garbage truck and got seriously injured in July 2006. She was treated in Enerel hospital for about a month. She passed away after she was released from hospital ...

Citizen Kh who resides in Ulaanchuluut dumpsite

17.6 percent of the children interviewed were subjected to pressure and abuse at work while working in the dumpsite. 73.3 percent were abused by other children and 33.9 percent by adults working in the dumpsite. They couldn't receive help although they were mistreated and abused.

30.5 percent of the children have experienced negative physical effects since they started working in the dumpsite. The most common illnesses included headache (73 percent), allergies (46.1 percent), backache (57.6 percent), rashes (42.3 percent), and coughs (46.1 percent). Moreover, diarrhea, indigestion, internal organ disorders, and rheumatism,

were reported by 2-7 children. 22.3 percent of the children received leg injuries, 21.1 percent arm injuries, 4.7 percent to head injuries, and 8.2 percent had burns.

According to the children, drinking, smoking, capriciousness, others' manipulation, and subjection to crimes were a commonplace among them. The parents of the children had the same concerns in this respect. 81.25 percent of all the parents believed that working in dumpsites has negative impacts on their children's morals and upbringing.

As the study shows children working in dumpsites in urban areas are abused, have no access to education, and work long hours in polluted and appalling conditions that don't meet minimum health and hygiene standards, and their rights are violated. Administrative authorities need to take action to alienate them from work, enable them to get back to school, and provide support for their parents and relatives, and collaborate with international and humanitarian organizations that operate in this area supporting their activities.

Child Labor In Commodity Market The primary source of this survey is the findings of the survey on the conditions of children working in markets in Ulaanbaatar conducted by the NUM Demographic Training and Research Department in 2002. Thereafter, the NHRCM carried out a surveillance study to assess developments emerged in a 5-year period following the above survey. The study 66 children working in markets such as Narantuul, Da Khuree, Bars, Khuchit Shonkhor, Kharkhorin, Khangai, and Tsaiz in Ulaanbaatar.

About 1,800 children work in large and small markets in the capital city and an average age of the children is about 13.5.

Whereas 58.7 percent of the children didn't go to school according to the 2002 survey, the Commission's study discovered that 71.7 percent of the children didn't go to school. 47.9 percent of the children responded that the reason they don't go to school is that they can't afford to cover school-related expenses, 47.9 percent no schools are available in the neighborhood, 14.5 percent they have no desires to go to school, and 12.5 percent they haven't acquired a residence permit. 62.1 percent of the children migrated from rural areas. 21.21 percent of the children answered that the reason they work is to scrape a living on a daily basis, 19.69 percent to feed their families, 18.18 percent the parents' demand, and 9.09 percent to bear school-related expenses.

An average number of the children's family members is 6 and 66.6 percent live in gers, 31.8 percent in fenced houses, and 1.5 percent in apartments. 86.3 percent of the children's household income fluctuates between Tg 30,000 and Tg 100,000. The children's housing conditions and household income indicate that their families fall into the low-income family category.

The majority of the children work outdoors in dusty and noisy conditions — it is cold in wintertime and hot in summertime. There are no facilities where children can rest, warm up, or rest. Such bad effects of working conditions lead to child rights abuse and damage to children's safety health.

The market children engage in labor such as carrying load in carts and lifting, loading, and unloading them, retail such as sale of candies, fruits, food, vegetables, newspapers, and bags), washing cars, guarding cars, polishing shoes, and sorting out vegetables. Boys are more prone to carry load by hand or in carts and girls mainly collect leftovers and sell small items in terms of gender.

The cart pushing children are usually aged 15-18 and youngest one is aged 13. They carry a minimum of 10-20 kg and maximum of 500 kg-1 ton of load. However, it is 4-8 times heavier than the permissible weight of load minors should lift and carry set forth in the regulations adopted by the Minister of Social Safety and Labor. The minimum amount of load children should lift and carry by hand is 20-50 kg. Basically, the children carry load in carts 4-8 times heavier than the permissible weight and conversely, those carrying load by hand 4-5 times heavier than the permissible weight. Moreover, consequently, what happens often is that children have accidents, get weight down with load, and get injured while carrying load heavier than the permissible weight.

... 15-year old male student, Tsoglog Club, Tegsh Mur Center, carried load regardless of the weight and size for Tg 100. He carried 50-kg load often. One day he had rashes on his body with pain and had a fever for 10 days, but he wasted much time being unable to see a doctor owing to a lack of national health insurance and money. Thereafter, when had medical checks in the National Center for Contagious Disease Studies (NCCDS), he was diagnosed with pain caused by exhaustion.

Tegsh Mur NGO, 2007

Children working in automobile markets often wash cars for sale and guard them in the nighttime. Children “trusted” by market staff, dealers, and police based on verbal agreement guard cars and assets in the nighttime. The biggest problem children working in automobile markets face is theft of parts of cars they guard. In case parts of cars children guard are stolen they are obliged to pay off the damage, and however, in many cases, they are beaten by dealers and get injured as they couldn’t afford it.

The Labor Law allows children aged 14-15 to work up to 6 hours and those aged 16-17 up to 7 hours per day. Nevertheless, in most cases, market children turn up when markets open and leave when they close. For instance, 18.01 percent of the children interviewed worked 7 days per week and 43.9 percent 6 days per week. Most markets have a day off per week and about 63 percent of the children worked all day long. 69.6 percent of the children worked all season all year round and 86.3 percent all seasons other than winter. 62.1 percent of the children responded that they worked all market working days and this is the highest percentage in the study.

Customers pay lower fees to children for services they provide than those they pay for adults for the simple reason that they are children and in some cases, they decline to pay fees they have pledged. Consecutive studies demonstrate that child labor isn’t paid fairly and extremely low fees are paid for it. This is because there is a common misconception among people that child labor is cheap. Child labor is not valued equally and is often underpaid.

Children working in markets don't use safety equipment. 72.2 percent of the children interviewed answered that they don't use necessary safety equipment. 80 percent of the children believed that they encounter difficulties at work. The sex ratio of the participants who expressed such concerns is almost the same.

For instance, the children answered that they encounter difficulties such as inability to receive fees (10 percent all the time and 74.2 percent sometimes), feeling hot or cold (27.2 percent all the time and 59 percent sometimes), exhaustion (21.2 percent all the time and 54.5 percent sometimes), getting injured (9 percent all the time and 53 percent sometimes), beatings (3 percent all the time and 40.9 percent sometimes), mugging or robbery (3 percent all the time and 30.3 percent sometimes), being chased away (4.5 percent all the time and 46.9 percent sometimes), verbal abuse (6 percent all the time and 50 percent sometimes), others' manipulation (9 percent all the time and 57.5 percent sometimes), payment of taxes for local gang bosses (4.5 percent all the time and 18.1 percent sometimes), and confiscation and breakage of belongings (10.6 percent all the time). In the above circumstances children are usually helpless and can't receive help. In terms of the latest difficulty 59.6 percent of boys and 39.2 percent of girls didn't ask for help. However, 20.6 percent of boys and 40.5 percent of girls asked their families and relatives for help and 15.4 percent of boys and 23 percent of girls asked their friends for help.

69.6 percent of the children believed that since they started working in the markets the health has been affected badly. For instance, 28.2 percent responded that they have had backache regularly since they started working there, 15.2 percent rheumatism, 28.2 percent headache, 4.3 percent internal organ disorders, 17.3 percent coughs, 13 percent rashes, and 4.3 percent allergies.

The study looked at illnesses and injuries the children suffered. 19.6 percent of the children had injuries to their legs, 43.9 percent to their arms, 13.6 percent to their backs, and 9 percent to their heads. 3 percent of the children responded that their legs and arms were frozen and 4.5 percent they had burns. 69.5 percent of the children working in the markets got sick for some reason and 63.6 percent had physical injuries. These data show how much such child labor has affected the health of the children.

The study ascertained whether there have been any changes in the characters of the children performing the same work since they started working in the markets. 60.6 percent of the children responded that the children's characters were spoilt, 33.3 percent the children steal things being manipulated by others, 25.7 percent accepted drinking, and 48.4 percent smoking. Facts show that the girls working in the markets are subjected to sexual abuses and exploitation.

Child labor in markets in the capital city falls into the worst forms of child labor in terms of nature and conditions. Local authorities have agreement with owners of business entities that operate markets and market administrations to discontinue child labor in such markets but it isn't usually enforced.

Child Labor at the Circus. Since the 1940s a circus had developed in Mongolia, and however, since social and economic changes were launched in the country it has been

neglected in terms of public policy and state support. When the circus started declining or in 1990 Mongolian acrobats and contortionists performed in Switzerland and their performances were appreciated by spectators therein and this opened up the European market to Mongolian circus performers. Since then there has been a flow of Mongolian circus performers, in particular, contortionists, going abroad.

There are no specific data available on Mongolian circus performers working abroad but there are about 600 Mongolian circus performers working and residing abroad taking account of the spread of circus performers and number of circus group and band members. 70 percent of the circus performers residing in foreign countries are contortionists. Mongolian circus performers travel and perform in all the continents in the world, but perform regularly in countries such as the USA, Germany, Canada, Italy, Spain, Turkey, and France, and Taiwan.

A demand for circus performances tends to increase in both Mongolia and abroad. Circus performers, in particular, contortionists, have performed regularly in folk concerts, shows in tourist camps and resorts, celebrations, parties, and banquets in recent years with a rapid growth in the tourism industry and arts. A growth in a demand for circus performances is important for circus development, and however, there is a need to address the issue of circus performers, in particular, child labor, in this context.

A specific feature of a circus performance is that as it is a young age art, circus training starts at the age of 5-6 and children become skilled performers at the age of 11-13. As natural flexibility and light weight of children are extensively applied for performances of acrobats, gymnasts, or contortionists, circus groups and bands and groups usually employ a specific number of children.

There are many children under the age of 18 among Mongolian circus performers working abroad. It is estimated that there are some 100-120 children, circus performers, working abroad and in addition, there are about 300-400 children undergoing training to become circus performers. The majority of the children undergoing the training in Mongolia also contract to work abroad on a temporary footing. Moreover, according to a circus analyst, children perform in tourist camps, hotels, and shows, at the request of institutions and individuals in Mongolia.

There are about 300-400 under 18-year old children undergoing circus training about 200 out of which work as circus performers and an average age of the performers is 14-16. 52.6 percent of the children interviewed live in ger districts, 39.4 percent in apartments. 10.5 percent of the children have up to 3 family members, 84.2 percent 4-7 family members, and 2.6 percent over 7 family members.

36 percent of the children reported that an average monthly household income is Tg 100,000-200,000, 12 percent Tg 200,000-300,000, and 12 percent Tg 300,000-400,000, and 32 percent over Tg 400,000. The correlation between the housing conditions of the children undergoing the circus training and the number of the family members and monthly household income indicates that over half of the children live in the households whose living standard is below average.

The study shows that most of the children started undergoing training or working at the circus at the request of their parents and adults and later when they specialize in complex and difficult elements of performances and start making income, they begin enjoying the profession. For instance, 18.4 percent of the children interviewed started taking the training at the request of their parents and 47.36 percent at will. However, 22.22 percent of the children who started undergoing the training at will answered that they enrolled in the training at the request of their parents and gradually enjoyed the profession. In general, the main purpose of the children undergoing the circus training is to work abroad and earn income. All the children interviewed responded that they enjoy their work and 94.7 percent wish to continue to work as circus performers in the future.

The school attendance of the children undergoing the training attracted attention. 86.8 percent of the children go to school and 7.8 percent don't and however, if they choose to go to school they are placed in grades lower than those where they should be. This is because they take leave of absence from school to contract to work abroad for 3-6 months and lag behind the rest of students when they get back.

A specific feature of a circus performance is that children need to start training at the age of 6-9 and take training for 5-6 years with up 2-4-hour training per day to be a circus performer and they still need to continue training even following the completion of training. For instance, 58.3 percent of 24 children, circus performers, interviewed have been trained for 4-6 years and 29.1 percent for over 7 years, and 50 percent are trained for 15-20 hours per week, 8.3 percent for 25-30 hours, and 12.5 percent for 30-40 hours.

21.8 percent of the children working in the circus work about 21.8 hours per week and this is a burden on children aged 13-14. These data were acquired when the children were in the country without a tight schedule, and however, when they travel and perform abroad, there is usually a 2-3-fold growth in the workload. In some cases, girls, contortionists, give 6-7 performances at a time when performing abroad and thus, this becomes a burden equal to 15-16 performances per day including back warm-ups.

A situation of circus children who perform in the nighttime attracts attention. Although a performance time frame or that for "paid" child labor is 6-8 minutes, as a circus is entertainment they have to work in the nighttime in both Mongolia and abroad. This is in violation of Articles 110 and 110.2 of the Labor Law prohibited employment of minors in the nighttime.

Since a contortion has folk attributes domestic tourist companies are prone to employ girls, contortionists. In some cases, tourist camps violate children's rights by having them to perform for unregulated hours day and night whenever customers desire.

When children receive an opportunity to perform abroad, trainers representing them make contracts to hire them and act as intermediaries. Unfortunately, owing to a lack of adequate legal education of such intermediaries and inadequate care of parents' of children's safety, there are many children whose health is harmed.

... A boy, acrobat, fell off and injured his shin owing to inadequate fastening of a safety belt in 2006 while working in the Republic of Korea under contract. He had surgery for his shin but when he returned home his wound festered and got inflamed. Where the contract had general provisions obliging the receiving party to be responsible for his safety, there was no regulation of necessary action and amount of compensation in the case of any accident. The trainer and his parents didn't pay attention to details in the contract when it was being made and in consequence, the boy wasn't able to receive compensation for his injuries. His mother said that much to her regret he couldn't get compensated owing to a lack of the provisions.

... Girls, contortionists, aged 16-17, working under contract in Norway had a car accident while travelling and one girl had a serious hand injury in 1998. Unfortunately, as there were no contractual provisions for the receiving party to be pay compensation in the case of any accident during travels, she wasn't compensated. Her hand got senseless ...

According to the study carried out by the Commission, there are about 100-120 children, circus performers, working abroad under long-term and short-term contracts. Since the 1990s, Mongolian contortion performances have become well-known in Western Europe and the number of both foreign and local individuals and organizations seeking profits in this market has also increased. However, since 1997-1998 the number of circus spectators in Europe has declined dramatically thus, having effects on Mongolian circus performers working there. Consequently, some of the circus performers perform in small hotels and clubs and their rights are violated.

European countries enforce a general requirement that allows neither making contracts with children under the age of 18 nor getting them to perform in shows and parties. However, children aged 12-18 still perform such work by acquiring forged passports or by other means.

A wage rate for a circus performance varies from country to country. For instance, the wage rate is highest or 1,200-1,300 Euros per month in Europe and it is US\$ 610-850 per month in the Republic of Korea, Singapore, and Taiwan. The rate is lowest or US\$ 500-850 in Turkey among European countries. If a contract is made through an intermediary, 10 percent of the wages go to the intermediary, 10-20 percent to the trainer or facilitator, and the rest to the performer. According to the data collected for the study, one circus performer can earn 900-950 Euros per month in Europe and US\$ 300-700 in Asian countries as long as he/she performs his/her contractual obligations well.

There are many violations of the rights and interests of circus performers as a consequence of inadequate performance of contractual obligations by foreign receiving parties. The most common violation includes the receiving party's failure to pay wages agreed to in the contract, getting the circus performer to work longer hours than those set forth in the contract, and failure to perform its obligations to allow the circus performer to return home temporarily in the period of the contract.

... Children, contortionists, led by trainer E contracted to perform twice a day in the Republic of Korea for a monthly salary of US\$ 500 in 2006. However, the receiving party got the children to perform 4-6 times per day without any additional remuneration. Unfortunately, owing to a lack of the trainer's knowledge about law, he failed to file a complaint

...

In case a receiving party fails to perform its contractual obligations, the ability of Mongolian circus performers to take the case to a court for settlement and protect their rights in a foreign country is inadequate. Given children, circus performers, whose rights are violated, they can't protect themselves thus, experiencing damage to their assets and health.

In some cases, minors get stressed and indisposed while they are away from home working under contract and in consequence, they can't perform their contractual obligations.

... Girl, contortionist, N who was traveling and performing along with a folk dance and music group in Mongolian Town, Namyanju city, in the Republic of Korea, in March-October 2007 got indisposed and depressed owing to her heavy workload. She lost much hair and gave up working before the contract expired owing to exhaustion. Although N's family and manager of the dance and music group that the latter would let her return home, and however, they didn't let her return home in good time they managed to settle the issue with the NBC's intervention ...

There is a high risk that girls, contortionists, can be subjected to sexual exploitation and sexual promiscuity when they work in nightclub and show their beauty and flexibility.

... Girl, contortionist, B, who had been trained as a contortionist since she was 6 years old made a contract to perform in a nightclub, Republic of Korea, in 2002 at the age of 19. However, she had to act as a dancer and waitress besides performing there and she was locked in the daytime. A Mongolian person helped her escape and her relatives residing in Germany helped her return home ...

When the children were asked whether they experienced any pressure or difficulty at work 92.1 percent responded that they don't experience any pressure or difficulty at work. However, 4 children who answered that they experienced any pressure or difficulty were abused by trainers and other performers and children. Trainers accept physical abuses as long as they don't sustain injuries and tend to consider it one form of training procedure for professional circus performers.

... "Pinching" can happen. For example, there is a girl called B who performs acrobatics on horseback at the state circus. Her trainer usually whips her shins and she is already accustomed to it. Now, she performs acrobatic when her shins are whipped.

Interview with circus performer E ...

The children get hurt and injured often during the training. The children get exhausted, hurt and injured, receive head injuries, strain their sinews, and dislocate their joints often. In addition, they answered that sometimes, they feel sick, experience changes in personality, and become timid. In terms of the above changes classified by performance types, contortionists get exhausted, hurt, and injured often and conversely, acrobats get hurt and injured often by straining the sinews and receiving head injuries.

... It is unlikely that a circus performer becomes a professional without falling off or getting injured. In particular, acrobats can learn how to perform when they fall off. I started circus training myself at the age of 6. I fell off quite often. Now, half of my body and 2 legs are senseless. Thus, our rights are violated in many ways.

Interview with circus trainer B ...

Some Aspects of Circus Training. The study looked at some aspects of circus training, since on the one hand, circus training is an integral part of a circus performer and on the other hand, it is an issue that should be addressed by the Government although this issue isn't directly associated with child labor.

Circus performers are trained in informal clubs and tutoring clubs besides the Circus School, Music and Dance College. The above clubs usually train contortionists but there are a few acrobatics clubs. This is because contortion doesn't require much space or equipment compared with other circus performances and conversely, there is a high demand for Mongolian contortionist performances abroad.

Approximately 30 informal circus clubs operate nationwide and there are a number of contortion clubs located in Ulaanbaatar, Darkhan-Uul, Orkhon, and Dornod aimags. The membership of clubs and tutoring clubs is a minimum of 8-10 children and maximum of 50 children.

Since there are no contortionist training standards, each trainer uses his/her methodology for training. It is essential that classes in adequate warm-up and safety for performers are prioritized in curriculum development. Such classes aren't taught in some clubs and even teachers aren't educated in this area. In some cases, teachers of physical education, gymnasts, and parents whose children are contortionists have carried out contortion training.

Since no training facilities and universal safety standards for such facilities are available, informal training is carried out in homes or other facilities available at the time. Consequently, a large number of children are trained in cold and uncomfortable conditions that don't meet minimum sanitary requirements.

There is no legal regulation in Mongolia that deals with granting of a teaching license to carry out training for minors, conduct of businesses including minors in circus performances, unfair appraisal of child labor, ensuring of children's health, labor safety, and security, and standard setting on training conditions.

Children Working As Housekeepers. One form of child labor that has become common in urban areas in recent years is housekeeping. This form of child labor isn't a popular discussion topic, and however, according to studies carried by some organizations, it does attract attention. The Demographic Training and Research Center, NUM, conducted the first study on children working as housekeepers in 2005. Housekeeping is much better compared with places such as dumpsites, markets, and train stations in terms of working conditions and however, housekeeping children have to work long hours and there is a high risk that in some cases, they would be subjected to employers' pressure and abuses and therefore, the study included some data that attracted attention.

There are 6,148 children working as housekeepers in 6 districts, Ulaanbaatar, 56.7 percent out of which are boys and 43.3 percent girls. An average age of housekeeping boys is 13 and that of girls is 14. Fathers of 31.1 percent of the children passed away, 6.7 percent of the children are orphans, and half of them don't live with their parents. Moreover, 12.3 percent of the children don't have shelters.

25.3 percent of the housekeeping children aged 7-15 dropped out of school because of low living standard of their families. 8.9 percent of the children can't read and 11.1 percent can't write.

25.6 percent of the children work to increase the household income, 21.1 percent work because the parents and guardians are unemployed, 23.3 percent work to help others, and 18.9 percent work to make money.

The housekeeping children's regular work includes babysitting, taking care of the elderly, cleaning, washing, cooking, carrying water, and chopping firewood. In addition, they perform work such as selling goods in market space or kiosk being rented by the parents, chopping firewood and putting it in sacks in markets, and guarding cars. For instance, 22 percent of the children do this work in addition to the main one and spend about 3 days per week on such additional work.

On average, children work 7 days per week, and 30 percent of the children work 7 and more hours per day. 40 percent of the children working in households of persons other than their relatives work without rest. 14.4 percent of the children sometimes work in evenings and in the nighttime and 46.7 percent don't rest during public holidays. In contrast, workload of 66 percent of such children grows during public holidays.

Half of the children have cooked food once per day and 37 percent twice per day. 44 percent of the children receive remuneration for their work in cash, 49 percent in kind, and 6.7 percent don't get paid. An average monthly wage of the children who get paid for their work is Tg 11,000. They don't get paid regularly as well as suffer both physically and mentally. There have been incidents caused by employers and their family members such as beating, threatening, sexual abuses, and putting the housekeeping children up as a collateral.

On the common difficulties experienced by the children interviewed, whereas 20 percent answered that they are beaten by the male/female household heads, 53.3 percent

verbally abused, and 20 percent threatened, 11.1 percent they are given a small amount of food, receive low wages, or don't get paid. 1.1 percent has been sexually abused.

... It is difficult to work as a housekeeper. Babysitting is better. The most difficult thing is the household members' regular drinking. Guests who visit the household harass me maybe because I am big for my age.

Kh, 15-year old girl, Bayanzurkh District, Ulaanbaatar ...

... I had worked in one household. Nonetheless, the household members is getting me to work in another household as the former own a debt to the latter.

Kh, 16-year old girl, Bayanzurkh District, Ulaanbaatar ...

Whereas 86.5 percent of the children interviewed responded that their employees treated them well providing good food and clothes, the rest answered that the household heads treated them badly scolding, beating, and refusing to let them go to school. Those younger than the others suffered coughs, headache, sore throats, and rashes when they were working.

Smoking and alcohol consumption are quite common among the housekeeping children. For instance, over 10 percent of the children over the age of 12 have smoked and 11.6 percent consumed alcohol. A few children have used drugs and benzine to get intoxicated.

Housekeeping is similar to slavery taking account of a lack of schedules, beating, abuses, cruel treatment, insults, and in some cases, violence, and unfair appraisal of child labor. Given these circumstances, housekeeping can be considered the worst form of child labor. As per the ILO Convention No. 182 if a competent authority considered housekeeping the worst form of child labor, it would be sufficient justification for prohibition of this form of child labor.

1.5. Child Labor in the Mining Industry

In recent years, the mining industry develops quite rapidly in Mongolia and becomes a chief industry in the national economy. However, thousands of persons work in this industry, in particular, in the informal one beyond legal regulation and this situation brings about numerous human rights-related issues. The study examined the issue of children mining gold, spar, and coal separately.

Persons manually mining gold and spar and numerous children currently work in Uvurkhangai, Tuv, Selenge, Bayankhongor, Arkhangai, Gobi-Altai, Umnugobi, Dornogobi, Dundgobi, Dornod, and Khentii aimags it is impossible to determine the number. A basic study on children and adults illegally mining gold and spar conducted by the Demographic Training and Research Center, NUM, in 2006, revealed that there are 45,902 persons working in gold and spar deposits, 7,996 out of which are aged 5-17 and 91.4 percent of

the children work in gold deposits and 2,572 are school dropouts.

The NHRCM carried out a study among children and their parents who manually mine gold and spar in Uvurrkhantai, Bayankhongor, Umnugobi, Dundgobi, Darkhan-Uul, Dornogobi, Selenge, and Tuv aimags with a view of determining the working conditions of children in the mining sector. The study covered 232 children and 150 parents working in informal mines.

36.3 percent of the children interviewed were aged 7-14 and 56.8 percent 15-18 and 85 percent were boys and remaining 15 percent girls. 33.3 percent of the parents were aged up to 35 and 60 percent 36-55. They manually mined gold and spar mostly as families.

76.6 percent of the families migrated from other areas and since they aren't registered with their residences they have limited access to social welfare.

70 percent of the children dig holes, make shafts,³⁹ 50 percent dig up and carry earth, 21 percent load trucks with earth, 34 percent wash, sort out, and sieve gold, and 9 percent work in cafes and stores. The children also fill the gold blowing equipment with earth containing gold, dispose of waste earth, and search gold carrying gold detectors. Work children perform in gold and spar mines require much strength and there is a risk that they would experience air deficiency, get weighed down with earth, and falling down in holes and shafts.

Given the working conditions in which they work, 56 percent of the children work underground without air and sunlight, dirty, 54 percent in dirty, dusty, and noisy conditions, 38.6 percent in extremely hot and cold conditions, 16.4 percent in wet and damp conditions, and 32.5 percent deal with mechanical equipment.

There is a risk that children mining minerals manually would die and get injured and sick. 18.7 percent of the children working in gold mines have fallen down in holes and shafts, 17.1 percent hit by stones and equipment, 1.5 percent weighed down with earth, 3.1 percent hit by machinery, 12.5 percent fallen down in water, and 48.3 percent injured. It should be noted that parents allowing their children to work in dangerous and risky conditions don't take action to protect them.

Another criterion of determining the worst form of child labor is work hours. Most of the children work all seasons and every day without any rest or schedule. The children working in gold and spar mines usually work 6 hours per day and in some cases, work longer hours. Generally, an average working hour per day is 8-9 hours and it exceeds the time limit set in the Labor Law. We stress that the ILO recommends that the State Parties consider work continuing over 43 hours per week the worst form of child labor.

The right to education of the children is in violation. 57.8 percent of the children don't go to school at all and some of them are illiterate. They explained that this situation is mainly caused by financial hardship, early school dropout, and illiteracy.

³⁹ A hole big enough for a person to reach a gold occurrence area

Information and training ger centers are established and operate in deposits Altan Us and Builst in Uyanga and Ult soums, Uvurkhangai aimag, Bayan Ovoo and Bombogor soums, Bayankhongor aimag, in the framework of an ILO project. The ger centers conduct training to increase public awareness about child labor and special training for the working children.

Child labor in gold and spar mines poses imminent risks to the children's health, safety, and security of children and had a negative impact on their development and therefore, it is the worst form of worst child labor.

1.6. Child Labor in Agriculture

Labor of Children Herding for Other Households. Although there are no national data on the number of children herding for other households, studies show that there many children engagin in this labor.

The Demographic Training and Research Center, NUM, conducted a study covering 270 herding children in Uvurkhangai, Khovd, and Khuvsgul in 2005. 64.4 percent of the children were boys and 35.6 percent girls and 21.5 percent were aged 6-11, 36,7 percent 12-14, and 41.9 percent 15-17. Whereas the majority of the children working in the areas where they were born 28.5 percent were herding in other soums.

“Social Development Center” NGO carried out a study in 2001 covering 291 children in 12 soums, Uvurkhangai and Khovd aimags, 72.8 percent out of which were school dropouts or had never gone to school. 87.6 percent worked as herders to maximize their household income.

Over 50 percent of the children experienced difficulties such as getting lost and get benumbed with cold in storms and irregular eating besides working 8-10 hours and in some cases, 12-16 hours per day. Most of the children herding livestock for other households work based on oral agreement. Moreover, there have been cases such as unjust appraisal of child labor, wage non-payment of wages, exceeding work hours agreed, prohibition of schooling, and in some cases, beating and sustaining injuries, and causing a loss of life.

... Herder of thousand animals, Tsogt soum, Gobi-Altai aimag, S agreed to get 16-year old child U, son of U, resident of the same soum, to drive his herd to Uvurkhangai aimag and give him 10 goats for his work plus allow him to return home in December in March 1998. Nevertheless, in this period S migrated to Darkhan-Uul aimag and U's family lost contact. S often beat the boy while employing him in a 4-year period without allowing him to return home. The neighboring family found it out and helped him escape and took him to his sister's. Action was taken as a follow-up to a complaint filed by the NHRCM in 2003 and damage incurred to U was compensated.

... 16-year old child G was herding the sheep of herder M, Zuunkharaa soum, Selenge aimag. However, it was unlucky for him that some sheep were eaten by wolves and he got frightened and in consequence, committed suicide ...

Labor of Children, Racehorse Riders. In recent years, horseracing has become commercialized to some extent and is no longer limited to naadam, national festival, and an increasing number of racehorse-riding children, attracted the attention of the NHRCM.

According to a joint study conducted by the NHRCM and NBC there are about 27,600 children who ride racehorses nationwide and they participate in about 150 major and small horseraces with duplication. If the number includes long-distance training and minor horseraces, it will double or triple.

Although specific measures are being taken by the Government, there are still numerous pending issues on the safety and security, and health, and appraisal of work of the racehorse-riding children.

While the NHRCM acknowledges that horse racing is unique culture to be proud of in the world, it can't accept that deaths and injuries of racehorse-riding children, are commonplace. There have been 18 deaths of children riding racehorses since 1996, 16 out of which occurred in 2000.

... A racehorse 13-year old child was riding strayed and this resulting in the death of the boy in February 2005 in Sukhbaatar soum, Sukhbaatar aimag, owing to organization of horseracing in a snowstorm.

... A child, racehorse rider, fell off his horse and got injured in a horserace held on the 8th day of the Lunar Calendar New Year, 2006, in Asgat soum, Sukhbaatar aimag. Nevertheless, his father got him to take part in the following horserace and this eventually led to his death.

... A 12-year old boy lost his life due to a serious head injury as he fell off his horse during a horserace held in July 2007 in Ulziit town, Songinokhairkhan District ...

According to a study conducted by the NHRCM in 2006, 206 children had been injured in the past 3 years or in 2004-2006. 39.8 percent of the children had had minor injuries, 31 percent slightly serious injuries, and 20,8 percent serious injuries. Children usually receive hand, foot, head, and collarbone injuries. 40.3 percent of the injuries were hand, collarbone, and shoulder injuries, 29,8 percent head injuries, and 24,1 percent organ of support injuries. Also, 91.8 percent were sustained during horseracing and the remaining 9.2 percent during long-distance training after the children fell off their horses.

According to a National Center of Trauma and Disorder Studies (NCTDS) study 816 out of 220,123 people who received medical care were children injured falling off the horse and this accounts for 0.3 percent of all the patients.

... A 12-year old girl got disabled after she fell off her horse and had a hip joint injury in a horserace held in 2004 in Uvurkhangai aimag.

... An 8-year old boy got paralyzed after he had head and spinal cord injuries falling off his horse in a horserace held in Tuv aimag in 2005 and a 10-year old child also paralyzed after he/she received a brain injury despite surgery he/she underwent.

... A second grade child got frostbite on his leg and many other children on their cheeks, feet, and hands in a horserace held in February 2006, Gobisumber aimag, when it was minus 30 Celsius ...

Children had medical checkups during the 2005 National Forum of Racehorse-Riding Children. 30 percent of the 120 children had kidney inflammation, 20 percent liver inflammation, and the majority scars on their faces. 59 children filled out a questionnaire and 33.8 percent of the children fell off their horses during horseraces, 10.1 percent they got injured, 38.9 percent got frostbite on their feet, hands, and cheeks in harsh winter, 28.9 percent got tired during horseraces, and 28.9 percent got scared.

Another pressing issue for racehorse-riding children is appraisal of work. Over 20 percent of prizes for horseraces shall be allocated to racehorse-riding children under the Procedures of National Festival Horserace adopted by Government Resolution No. 148 in 2005. In reality, up to 30 percent of hundreds of horses taking part in horseraces are given prizes and children who have ridden most of the remaining horses remain without prizes. In addition, these procedures apply to the National Festival and horseraces being held by the Government exclusively. Many issues like these related to racehorse riding children's labor are still outstanding for adequate solutions.

Recommendations made based on assessment on the worst forms of child labor.

1. To implement the ILO Convention on the Worst Forms of Child Labor No.182 and revise and adopt the list of the worst forms of child labor;
2. To determine places where the worst forms of child labor exist based on the above list, and develop and implement programs and plans to eliminate and prevent such forms of child labor;
3. To incorporate all the worst forms of child labor stipulated in paragraphs a), b), and c), Article 3 of the Convention in the Criminal Code, and revise some provisions of the Criminal Code as recommended in the report;
4. To fight against crimes such as child trafficking, sexual exploitation of children, use of children for the production of pornography and pornographic advertising, ensure better implementation of projects and programs on this, improve the capacity to investigate and resolve these crimes and qualify and train staff in relevant state authorities;
5. To review rules and regulations on adoption of a Mongolian child by foreigners with a view to preventing cross-border trafficking and sexual exploitation of children and improve monitoring on the realization of rights of children adopted by foreigners by competent authorities;
6. To develop consolidated registration and database on street children most vulnerable to child trafficking, sexual exploitation, and crimes, create a transfer monitoring system, examine whether children travelling abroad return, and take measures to prevent these types of crimes;
7. To conduct a nationwide study on the child labor situation, determine reasons and factors for children's engagement in the worst forms of child labor, take measures to eliminate them, study local child labor situations, and improve the obligations and responsibilities of local administrations to isolate children from the worst forms of child labor;
8. To create jobs for adults of poor and desperately poor households whose children engage in the worst forms of child labor, increase the household income by involving them in projects and programs, and take action to isolate children from the worst forms of child labor;
9. To enhance knowledge and understanding about provisions of international law and national legislation on child labor, in particular, the worst forms of child labor, and negative impacts and harms of child labor among parents and public, and change their attitude to child labor;

10. To immediately prohibit child labor in mining gold and spar in the formal and informal mining industry and collecting garbage, take action to isolate the children from these forms of child labor and allow them to go to school, and establish a system for holding parents who lead their children to engage in these forms of child labor liable for it;
11. To isolate children working in rural areas from child labor, enable them to take formal and informal training, and support and cooperate with individuals, NGOs, projects, and programs aimed to promote training and public awareness to protect their interests;
12. To improve legal regulation aimed to terminate labor of children under the age of 14 such as carrying and lifting heavy load in markets and railway stations, tighten liability of parents, guardians and others who get their children under the age of 14 to perform hard work, and carry out a wide range of public awareness activities;
13. To take into consideration business operations that make profits holding training for children in art shows, in particular, circus (contortion art and acrobatics), and fashion, and exploiting child labor, improve government monitoring in granting licenses to conduct training and perform, and prevent exploitation of child labor and its negative impacts on health, safety, and security of children;
14. To take into account informal circus training and develop general requirements and standards on curriculum, housing, and trainers, and monitor their enforcement;
15. To prohibit employment of minors and children of schooling age as housekeepers and herders for other households and create a mechanism for liability for employers who employ minors in this area;
16. To ensure that the Parliament discusses and decides whether to include child horseracing in the worst forms of child labor and legally regulate the horse race issue and specify that a minimum age of a racehorse-riding child shall be under 9 in case the Parliament decides not to do so, enhance occupational safety requirements, and come up with regulation of fair appraisal of child labor.

2. Realization of the Rights of Victims

With a growth in the number of cases of damage to others' health, and safety, rights, freedoms, dignity, prestige, business reputation, and assets in recent years the amount of damage and harms also rises with many victims for any single crime. Therefore, the NHRCM paid special attention to the issue of the rights of victims in its 2007 report.

Article 8 of the Universal Declaration of Human Rights, Article 2 of the International Covenant on Civil and Political Rights, Article 6 of the Convention on the Elimination of All Forms of Racial Discrimination, Article 16 of the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, Article 39 of the Convention on the Rights of Child all specify that effective legal protection should be provided for persons whose rights and freedoms have been violated and conditions be provided for restoration of violated rights and freedoms.

The UN adopted a special declaration including principles and guidelines concerning compensation for persons whose rights and freedoms have been violated and restoration of violated rights and freedoms which are now internationally binding standards and norms. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power approved by UN General Assembly Resolution 40/34 in 1985, Resolution of the UN Economic and Social Council (UNECOSOC) No. 69 on Abuse of Power and Victims of Crime, and 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law are primary sources of international law on the rights of victims.

The content of these instruments is to ensure the guarantee of treatment of victims with respect to their honor, rights and freedoms, and the state to ensure the safety, physical and psychological well-being and dignity of private life of the victim and the victim's family and ensuring that the victim is "not victimized" again during the process of restoring the rights.

In the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, "victim" is defined as "victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law."

The Criminal Procedure Code defines "victim" as "a person who suffered damage to his/her dignity, reputation, and property, and mental and physical harm and harm caused by a crime" but omits to include persons whose basic rights and freedoms have been seriously violated. This limits, to a certain extent, the possibility of restoration and compensation of persons whose rights and freedoms have been violated in ways other than those specified in the law.

As provided for in international instruments, regardless of whether it has been determined that a culprit who has harmed a person is guilty a “victim” shall be determined. In other words, the person to whom damage has been caused will be considered a victim, regardless of whether the person who committed the crime has been determined and shall be entitled to protection and aid by the state. However, according to the Criminal Procedure Code, the issue of compensation is addressed only after the guilty party has been determined and the court decree has been issued and enforced, which leaves thousands of victims of violated rights and freedoms who can’t restore these violated rights and freedoms in cases where the culprit has not been determined or found.

The rights of the victim stipulated in Article 42 of the Criminal Procedure Code have failed to address the rights of the victim to be provided with information regarding investigation, court procedure, power, and time period, the right to have private life, property, family members, relatives and witness protected and the right to ensure his/her own safety. Also, the legal obligation to take the victim’s psychological and health vulnerability into consideration, when involving a victim in criminal proceedings, and treat the victim’s honor and dignity with respect, should be assigned to the relevant civil servants.

Full compensation for damage is a basic condition of the right of the victim to compensation. The UN principles provide that compensation should commensurate with the extent of the violations of human rights and freedoms and harms caused, and restitution should, whenever possible, restore the victim’s rights and freedoms, identity, family, property, employment, and school enrollment, to the original situation. International legal instruments stipulate that restitution includes, as appropriate, restoration of the victim’s physical, mental, and moral harm, employment, school, and education, and total settlement of lost opportunities such as social welfare, real and expected income, and expenses for legal, psychological, and social services.

In contrast, restitution of tangible damage is enacted only and nevertheless, a favorable legal framework for compensation for damage to the victim’s life, health, and mental injury hasn’t been created yet in Mongolia. In judicial practice, courts rescind claims for compensation for damage to the victim’s life and mental injury and exclude religious ritual expenses for the victim’s funeral not considering them direct expenses.

The law provides that the person who has harmed one’s health is obliged to pay essential expenses such as the victim’s remuneration and similar wages, nursing, nutriment, and prosthesis expenses. However, no compensation is legally justifiable for the victim who has lost his organ or had incurable aesthetical injuries. Compensation limited to the victim’s remuneration and expenses for medical treatment and prosthesis is inadequate as prosthesis can’t serve as well as the biological organ of the victim who has lost his organ.

Another condition for ensuring the right to compensation is an ability to be compensated fully and expeditiously. Although a compensation period for victims is determined by domestic legislation, it should be as short as possible. In the case of the regulation of national legislation in Mongolia, a lawsuit to get compensation takes from about 2 months and 1 week to 35 months to have a court decision made on this depending

on the nature of the case and potential appeals and review. Even though a court decision concerning compensation has been made, the process still requires quite a while – more days and months until the court decision enters into force, and in some cases, it is doubtful that it can come to force.

The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law recommends the State Parties to endeavor to establish national programs for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations. This program is directed at compensating the victim's damage that meet specific criteria, initially by the state and then by the culprit.

The Mongolia National Human Rights Action Program sets the objective of “procedure for compensating for damage in cases when an offender is incapable of paying compensation, the offender cannot be found, or in other cases when compensation must be paid immediately shall be developed for payment either by the State or through funds created for insuring individuals against crime shall be developed” which is contingent on the pace of adoption of the relevant amendments to the Law on Government Funds (2006).

The Criminal Procedure Code has provisions related to compensation of damage to a person because of unlawful arrest, detention, and sentencing by an inquiry officer, investigator, prosecutor, and judge, and unlawful suspension of his/her professional duties, keeping in medical institution, or compelled treatment, and however, they aren't sufficient for regulation of all the issues related to restoration of the rights of victims.

For instance, as the Criminal Code of Mongolia stipulates, compensation for material damage such as remuneration, benefits, confiscated assets, fines, court and defense lawyer expenses caused due to a civil servant's fault and compensation for immaterial damage is paid under the Civil Code. However, there is no regulation concerning this issue in the Civil Code. It is important to analyze possible cash compensation for every day of unlawful detention and imprisonment and that for mental injury besides compensation for material damage caused to the victim due to a civil servant's fault. Such legal regulation, if adopted, will make much progress in protecting the rights of victims and will simplify judicial procedure for such claims and contribute to reduction in faults and raise accountability of civil servants.

In the case of unlawful arrest, detention, sentencing, torture, and killing, most victims keep silent without filing a complaint for compensation. We can conclude that this is partially associated with the fact that law-enforcement officers dislike such a complaint, exert more pressure, and investigate the criminal case again.

Even though a few court decisions are made concerning compensation for damage caused to a person by unlawful action of a civil servant, there are still many difficulties in enforcing them. The Government and its relevant authorities are slow and bureaucratic in enforcing such decisions. According to the interpretation issued by the Supreme Court in

2006, compensation should be paid by the Government reserves fund for such damage caused to persons and however, the Government tends to apply the practice of discussing and making a decision in its meeting to approve such compensation.

Efficiency of payment of compensation to the victim of a criminal case for damage is highly dependent on action that is taken at the inquiry and investigation stage. At this stage of criminal procedure, inquiry officers and investigators are obliged to take action such as detecting and protecting assets of a person charged with a crime, determine damage, and ensuring the rights and obligations of claimants.

However, action that is taken to protect the assets at the inquiry and investigation stage is inadequate. A study commissioned by the NHRCM, reviewed a number of cases investigated by law enforcement agencies and found that only 1.6 percent of the agencies took action that met claim requirements and the amount of sealed property was equal to 9.6 percent of the total damage and 2.9 percent of the compensated damage. On the contrary, according to the SID records, the amount of sealed property was equal to 16.5 percent of all the damage and 39.9 percent of the compensated damage.

The police record the damage caused by crimes by 3 criteria – property damage and number of deaths and injured along with the calculation of compensation paid at the inquiry and investigation stage. For instance, according to the report the Chief of the General Police Department, citizens and institutions suffered damage of Tg 25.5 billion in total caused by crimes, sealed property valued at Tg 525.3 million at the inquiry and investigation stage, and had 11.8 percent of all the damage compensated in the first 11 months of 2007. These data lead us to conclude that inquiry officers and investigators focus more on crime detection and proving guilt but leave out compensation. It is necessary to eliminate these shortcomings arising at the inquiry and investigation stage and ensure that protection of assets is provided regularly regardless of whether claims have been filed for all cases qualifying the claimant for civil suit, and improve prosecutor monitoring for this action.

Accurate determination of property damage caused by crimes is an issue associated with interests of both the victim and culprit. Studies indicate that determining damage seems to be merely a formality. The Appraisal Commission, Office of the Governor, provides property appraisal to help determine damage besides its primary work and consequently, it becomes subsidiary to its primary work and is provided with little care and attention. The Appraisal Commission neither accurately researches into nor appraises characteristics, quality, durability, and market price of assets and applies the practice of appraising them by reducing value suggested by the victim, and never gives justification for it.

Moreover, since there are no specific guidelines and procedures for appraising prohibited and restricted articles, rare animals, treasure, jewelry, and ancient cultural and artistic works for some cases, as well as competent authorities that will appraise such items, there are many difficulties in determining damage. Therefore, it is necessary to improve guidelines and procedures for determining damage caused by crimes and appraising assets.

The most responsible obligation to protect the rights of victims is performed by court decision enforcement authorities and the legal framework for court decision enforcement has undergone many changes. According to the General Department for Court Decision Enforcement (GDCDE) records, 42.5 percent of Tg 1,757,533,300 that must be paid by 3,316 persons were paid in 2006. Since most convicts sentenced to criminal charges are unemployed and insolvent, in most cases, court decision enforcement documents are transferred to respective penitentiaries.

Adoption and application of procedures for releasing the convict on bail who has compensated damage prior to his/her sentence expiration help ensure that damage is duly compensated and however, they are applicable for solvent convicts exclusively. On the contrary, insolvent convicts hardly can compensate damage. The percentage of compensation paid by convicts sentenced to incarceration is approximately 22 percent.

It is appropriate to change the attitude of those considering payment of compensation a sole obligation of court decision enforcement authorities, focus special attention on protection of the rights of victims and payment of compensation at all the stages of criminal procedure, and improve legal regulation of detection of hidden assets, protection of such assets, and transfer thereof to court decision enforcement authorities.

3. Realization of the Rights of Mongolian Citizens Working in the Republic of Korea

Despite some positive indications in Mongolia's economy, a lack of a significant increase in personal income leads to citizens, in particular, young persons and middle-aged ones to migrate to work and reside abroad. The Republic of Korea is leading others in terms of the number of workers from Mongolia and there are a total of 28,700 Mongolian citizens working in this country.⁴⁰ The number increasingly grows.

A rapid economic growth and increased number of jobs in the Republic of Korea (ROK) since the 1980s resulted in a high demand for labor in small and medium-sized enterprises. There were an apprentice system and employment system for foreigners in the ROK, and however, the apprentice system has been abolished since 2007.

One power exercised by the NHRCM is to analyze an increasing flow of workforce going abroad and complex issues of the rights and freedoms of Mongolian citizens and functioning of the Government of Mongolia obliged to protect its citizens' rights and make recommendations for state authorities on further necessary actions.

Relations related to the employment of Mongolian citizens abroad and foreign citizens in Mongolia and protection of their rights are regulated by laws such as the Law on Dispatch of Workforce Abroad and Receiving of Workforce and Specialists From Abroad (2001), Labor Law, Law on the Legal Status of Foreign Citizens (1993), Law on Social Insurance and other legal acts adopted in accordance with them. According to the Law on Dispatch of Workforce Abroad and Receiving of Workforce and Specialists From Abroad, the central state administrative authority in charge of labor is mandated to determine public policy on dispatch of workforce abroad, ensure law enforcement, issue licenses to citizens and business entities to provide intermediation services, monitor the performance of the obligations stipulated in intermediation and labor contracts of workers, and make relevant agreements with both foreign governmental and non-governmental organizations.

Since 1994 Mongolian citizens have been engaging in labor in the ROK. The Korean side officially received 500 workers, the first group of Mongolian apprentices in 1998.⁴¹ There are currently 28,720 Mongolian citizens working and residing in the ROK about 60 percent out of which are working legally and the rest illegally. 90 percent or 25,000 of the citizens are employed in industries and 1,667 have settled down after they married to Koreans. There are 450 dependent children, 500 students and trainees, and about 300 entrepreneurs and family members of employees of governmental and non-governmental organizations. According to an official report of the Ministry of Justice, ROK, there are 11,777⁴² Mongolian citizens working and residing there illegally. As respect for the right of Mongolian children to education, they are permitted to go to primary school and foreign citizens working illegally are authorized to reside in the ROK until February 2008.

⁴⁰ As of June 2007

⁴¹ Proposal for measures to protect the rights and interests of Mongolian citizens working and residing in ROK, report by the Embassy of Mongolia in the ROK, May 4, 2007

⁴² Briefing on Mongolian citizens working illegally in the ROK, report of the Embassy of Mongolia in the ROK, May 5, 2007

A survey covered 330 persons aged 20-60 living in the ROK whose average age is 30 as there is no age limit for legal workers was carried out. 60.3 percent of the persons surveyed or 199 were aged up to 30 and 33.9 percent 31-40. 51.8 percent of the young persons aged up to 30 had higher education, 52.7 percent of the persons aged 31-40 weren't educated or had either secondary or high education. One fourth or 74.4 percent of the persons aged up to 40 and 26.7 percent of those over the age of 40 were contract workers. 75.8 percent or 250 out of 330 the persons surveyed were men and 60 percent of the women had higher education and 20 percent were physicians or medical officers, 20 percent engineers, and 29.2 percent teachers, translators, and journalists. The percentage of engineers, economists, engineers, and technicians was higher for the men.

Given employment by gender, whereas 30 percent of the women were employed in state authorities and 63.2 percent of the men in businesses in Mongolia, 15.6 percent of the women were employed mainly in the service sector and 11.1 percent of the men in the construction industry and agriculture in the ROK. The majority of the workers or 83 percent or 274 of the persons surveyed acknowledged that they are working in the ROK to improve their living and economic conditions. It was noticeable that the reason the men came to Korea is to maximize their income and that for women is to join their families, go sightseeing, and enhance their skills, and likewise.

378 Mongolian citizens died in the ROK as of June 2007. The main reason they died was mostly car accident or industrial accident and chronic disease aggravation, suicide, and murder in a drunken state.

... Every 10 days there are on average 1 death, 5 violations, 6 injuries and illnesses.

The Embassy of Mongolia in the ROK

In the period of the survey, there were 16 Mongolian citizens serving a 2-12-year prison sentence in Korean in penitentiaries and 14 being detained in detention facilities. There are no reports on severe violations of the rights of Mongolian citizens during criminal procedure and however, it is essential to enhance access to legal aid for the citizens working abroad.

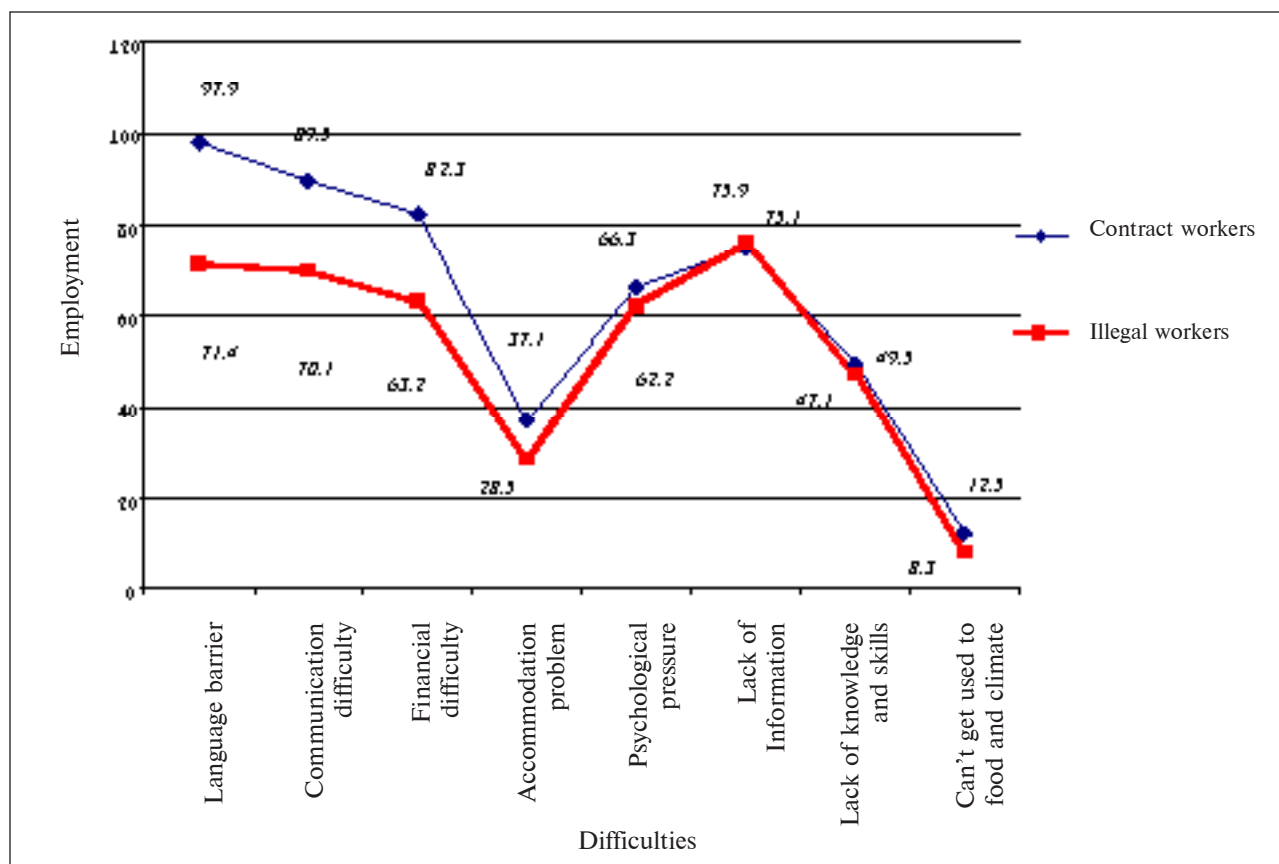
... It would be helpful for Mongolian citizens rather employers to have a command of Korean to some extent when they come to work in Korea. It would be great if one were able to express himself/herself telling that he/she is hungry, tired, or sick.

Owner of a carton producer in Ansan E ...

Approximately 3 out of every 5 persons surveyed or 56.4 percent acknowledged that they experienced discrimination based on their origin or nationality on the part of their employers or co-workers to some extent. Moreover, 1 out of every 10 persons was beaten.

Mongolian workers can't communicate with their employers and other co-workers well owing to a poor command of Korean. They have health problems and other difficulties as they can't get accustomed to food, working conditions, and workload, and lack of rest and sleep. There is insufficient information on Korean language, characteristics of Korean people and culture, and law, labor safety, and organizations that protect rights. This indicates that content and quality of training held for them is inadequate. This situation is also proven by the responses made by the Mongolian citizens working in the ROK. 88.3 percent of the citizens surveyed have communication difficulties often or sometimes to some extent – 92.1 percent have a language barrier and 84.5 percent can't communicate. Moreover, 2 out of every 3 citizens or 64.6 percent came under psychological pressure, 1 out of every 2 citizens or 50.9 percent suffered food and climate they weren't used to, and 1 out of every 3 citizens or 34.2 percent had an accommodation problem.

Difficulties experienced by the workers in Korea, by official work permit (percentage)



Only 4.8 percent of the citizens had adequate knowledge about the Labor Law of the ROK and 7 percent about the terms and conditions of the contracts made with their employers. While the contract workers had more knowledge about the Labor Law and terms and conditions of the contracts, the “illegal” workers and citizens engaging in temporary labor in the visa period had inadequate knowledge.

The findings of the survey show that the Mongolians working illegally work in more difficult conditions. However, 1 out of every 5 contract workers surveyed had “problems” related to work hours and wages, but half of them considered their working conditions inadequate in terms of labor safety and security.

Only 24.5 percent of the citizens responded that they work in conditions that meet illumination, ventilation, and dusting requirements. Furthermore, only 26.7 percent of the employers adequately fulfilled their contractual obligations made with the workers. About 60.3 percent of the citizens surveyed or 3 out of every 5 persons pay social insurance premium from their wages. Only 34.2 percent of the workers had received information on the agreement between Mongolia and the ROK on social insurance. 8 percent or over 1,600 of the Mongolians working in Korea were covered by social insurance in the ROK. The survey also found that the Mongolian citizens don’t understand the importance of social insurance coverage and there is a lack of information and public awareness activities in this respect.

As provided for in the Labor Law of the ROK, forcing foreign workers to open savings account and confiscate their passports and documents is prohibited and nevertheless, in practice, this provision is violated to some extent in practice. 10.6 percent of the citizens surveyed kept their wages in savings account under the pressure from their employers and 21.2 percent acknowledged that their passports and documents were confiscated by and kept with the owners, managers, or finance divisions of the enterprises.

The Mongolian workers couldn't get sufficient information about their working conditions before they came to the ROK. As per the Labor Law of the ROK, a foreign contract worker is entitled to change his/her workplace 3 times. As in most cases, the working condition in small and medium-sized enterprises are dirty, difficult, and hazardous, they have negative impacts on the employees' health. Furthermore, the Mongolian workers frequently change their jobs owing to low wages and disagreement with their employers and co-workers. Although a person wanting to change his/her job obtains addresses of potential jobs from the local offices of the Ministry of Labor of the ROK, he/she can't receive sufficient information about the working conditions and has to visit the place in person to find it out. As finding a better job with good conditions requires much time and money, it is the case that they can't examine jobs often. Thus, a foreigner has to accept any conditions or work "illegally" after he has changed his/her job 3 times.

35.5 percent of the persons surveyed or 117 persons have already changed their jobs and 12.7 percent owing to low wages, 3 percent inadequate accommodation and food, 6.1 percent tough work, 2.4 percent occupational illnesses, 0.9 percent industrial accidents, 2.4 percent pressure at the workplace, 4.2 percent enterprise bankruptcy, and 0.3 percent disputes with their employers.

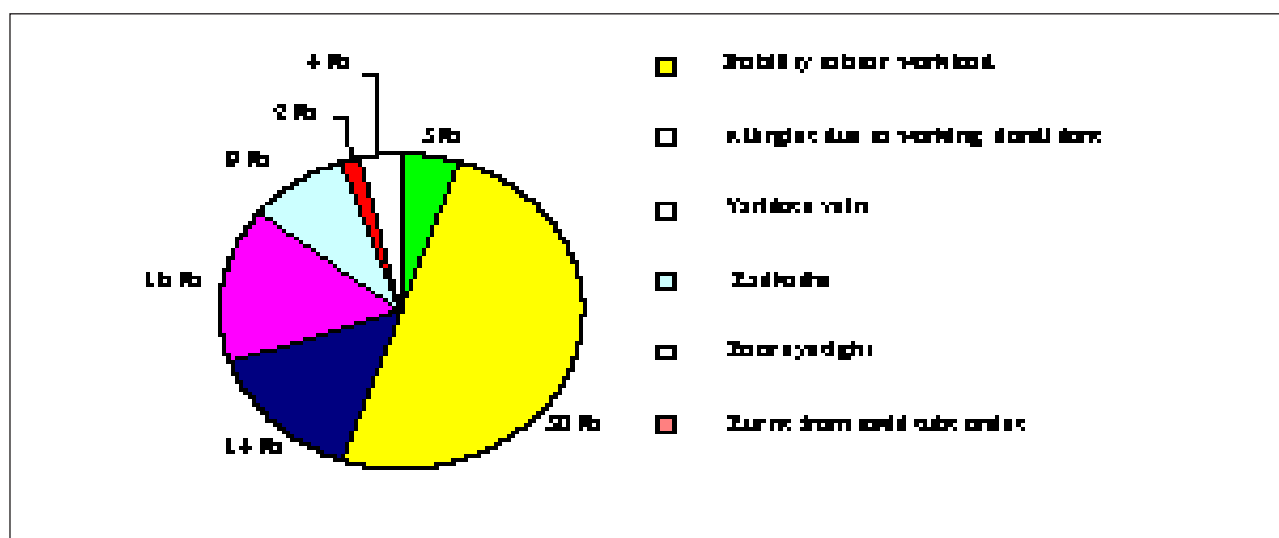
Only 73.6 percent of the persons surveyed receive their full wages and this is more likely for contract workers. A monthly income of the Mongolian workers is 500,000-1,800,000 won and average income 1,000,000 won. A minimum rate of wages equaled 786,780 won and 7 percent of the persons surveyed were paid at the minimum rate in 2007.

29.3 percent of the persons surveyed didn't have adequate understanding about standard work hours provided in the Labor Law. Moreover, only 22.9 percent work in compliance with such standard work hours. 3 out of every 5 persons or 60.1 percent work 9-12 hours, and 6.3 percent 13-16 hours. Illegal workers make up the majority (61.2 percent) among the people who work 12 or more hours per day.

13.3 percent of the persons surveyed suffered industrial accidents to some degree. Only 15.9 percent of those suffered industrial accidents received compensation and 25 percent got the enterprises to pay the expenses for medical treatment. There are many people injured and incapacitated in industrial accidents and in many cases, they couldn't receive funds for medical treatment, benefits, and compensation since they didn't have sufficient knowledge about their rights, had a poor command of Korean, waste time to hide the illegal status, or enterprises where they worked went bankrupt. The health of 33.3 percent was affected due to the jobs they were doing. The diseases of those who have been sick aggravate as they work with excessive workload in humid and low conditions and

can't manage their rest and food and illnesses such as stomachache, pancreas disease, hepatitis, kidney disease, and hemorrhage are widespread among the Mongolian workers. Allergies are common among the workers owing to hygienic conditions in enterprises and those who work long hours standing and lift heavy items are highly likely to suffer diseases such as varicose vein, backache, and spinal disease.

Changes in the health due to the jobs, by percentage



According to a survey on the social and health situations of foreign workers working in the ROK conducted by the Chonbuk University, 36.1 percent of foreign workers responded that the reason they can't access medical services is that they are insolvent, 30.5 percent don't have time, 6.5 percent don't know health facility locations, and 6.3 percent they have no information. Thus, we can conclude that 3 out of every 10 foreign workers who can't access medical services can't get leave of absence from enterprises where they work. 41.2 percent of those surveyed answered that they don't have an opportunity to go to hospital and 12.7 percent the reason is that they have a busy schedule.

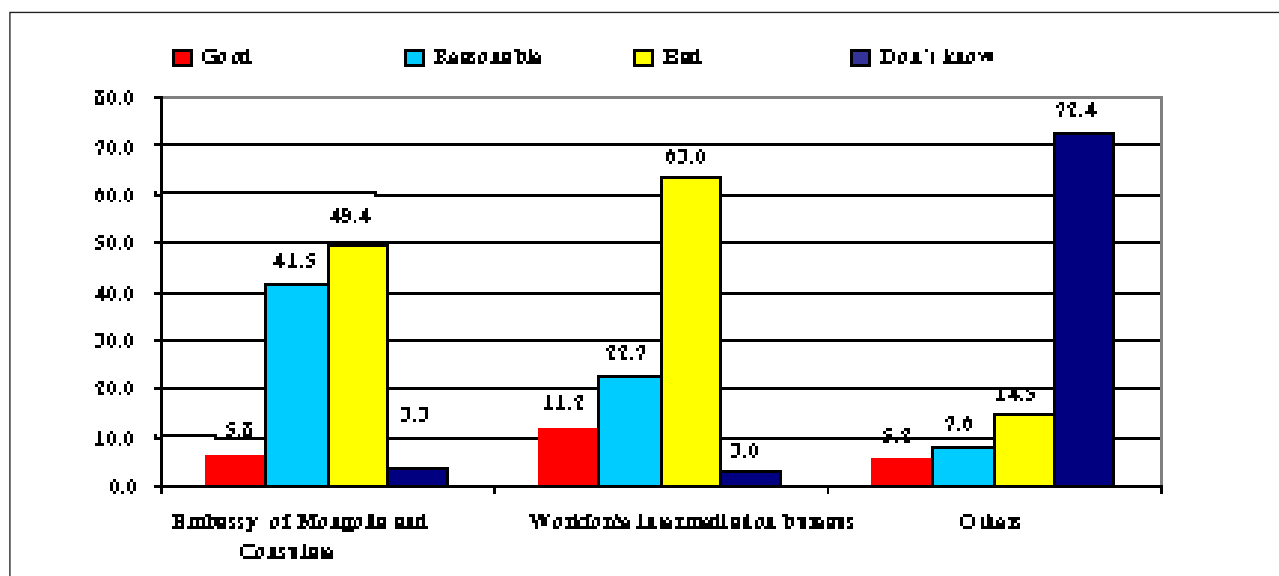
Whereas 25.8 percent of those surveyed responded that they have an opportunity make a request or complaint in the event their rights and freedoms are violated, 32.4 percent they don't have an opportunity to do so, and 38.5 percent they don't know where to go even though they have an opportunity.

Workers, in particular, those who are working in the first year, don't have sufficient knowledge and information about how to protect their violated rights. Moreover, 16.7 percent of answered that in the event they make a comment or complaint about their employers, the former come under pressure from the latter, and 41.5 percent they are afraid of any possible pressure.

Those surveyed weren't satisfied with activities of the organizations obliged to protect the interests of the Mongolian workers. For instance, 49.4 percent considered activities of the Embassy of Mongolia inadequate and 41.5 percent reasonable, and 63 percent activities of the workforce intermediation bureaus inadequate. In the course of the survey we observed

is that though the workforce intermediation bureaus had their representatives or representative offices in the ROK, the Mongolian citizens working therein through intermediation didn't have sufficient information about them. This is an indication of the quality and accessibility of the intermediaries.

Assessment of the organizations obliged to protect the interests of Mongolian workers (%)



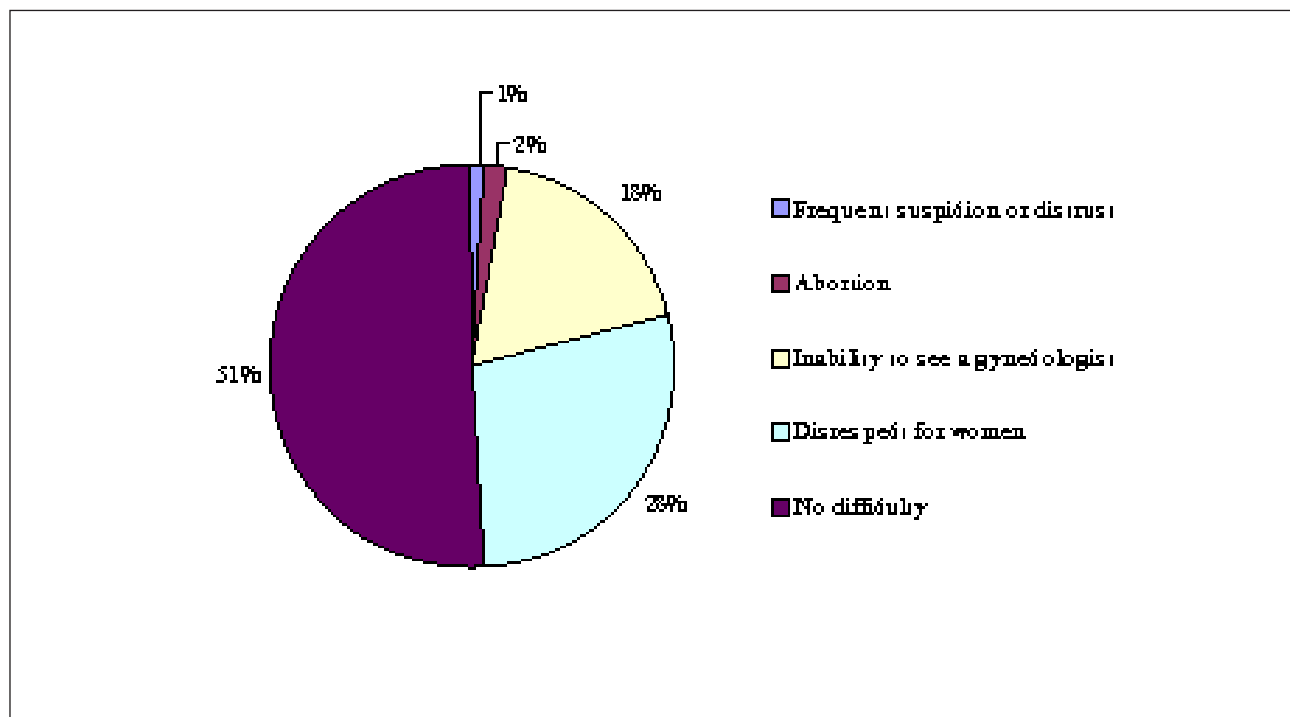
The Embassy and Diplomatic Representative Office of Mongolia perform their legal obligations to do registration and keep records on Mongolian citizens working under contract, send quarterly reports to the central state administrative authority in charge of labor, visit in person and examine the issues of the working conditions, wages, and social welfare of the Mongolian citizens, approach to the competent authorities of the host country with such issues, if necessary, and provide support and assistance to their citizens inadequately.

The people working and living abroad experience violations of their legal rights as well as difficulties in their private lives. About one third or 31.5 percent of those surveyed had difficulties such as misunderstanding of family relationships gradually leading to separation in their private lives. The workers living in isolation from their families and relatives for a long time and have a heavy workload often undergo psychological pressure and depression. Conversely, the family members who have a lack of knowledge and information about the workers' real situations make difficulties for them quite often. It is common for the workers to find partners while working and living in the ROK and it could lead to divorces. 7 percent of those surveyed were alienated from their families, 4.8 percent found partners, and 2.7 percent were often suspected.

About 7,000 of the Mongolian citizens working in the ROK were women, and a lack of jobs, sexual harassment at the workplace, misunderstanding with their families, divorces, and psychological pressure are commonplace among them besides the common

difficulties faced by other workers. In recent years, there has been a rapid increase in the marriage of Mongolian women to Korean citizens. As the survey found, 150 out of 1,667 women married to Korean citizens and living in the ROK changed their nationalities and got naturalized. There are cases of disagreement and separation and divorces owing to disparities between languages, culture, and customs, and domestic violence. 1 out of every 2 women surveyed experienced discrimination as women.

Difficulties faced by the women surveyed



4. International standards on the rights of women” and comparative study of national legislation

Article 10.1 of the Constitution provides “Mongolia shall adhere to the universally recognized norms and principles of international law and pursues a peaceful foreign policy,” Article 10.2 “Mongolia shall fulfill in good faith its obligations under international treaties to which it is a Party,” and Article 10.3 “The international treaties to which Mongolia is a Party shall become effective as domestic legislation upon the entry into force of the laws on their ratification or accession.” Mongolia is currently a party to 40 international human rights treaties and conventions and fulfills its obligations under these treaties and conventions. To that end, Mongolia is required to include the provisions of international treaties and conventions in its constitution and other relevant laws and enforce them.

Mongolia has acceded to the following treaties and conventions on the rights of women.

- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Political Rights of Women
- Convention on Consent to Marriage, Minimum Age for Marriage
- ILO Equal Remuneration Convention ILO Convention No. 100
- ILO Maternity Protection Convention No. 103
- ILO Convention Concerning Discrimination in Respect of Employment and Occupation No. 111
- ILO Convention Concerning Nightwork No. 171

Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women provides that the State Parties are obliged to undertake all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Article 16.11 of the Constitution provides “Men and women shall enjoy equal rights in political, economic, social, and cultural fields and in marriage.” There are many provisions in Mongolian legislation that don’t meet norms and standards of international law.

Legal Regulation on Mothers. Article 3.5 of the Maternity Protection Convention No. 103 specifies “In case of illness medically certified arising out of pregnancy, national laws or regulations shall provide for additional leave before confinement, the maximum duration of which may be fixed by the competent authority” and Article 3.6 “In case of illness medically certified arising out of confinement, the woman shall be entitled to an extension of the leave after confinement, the maximum duration of which may be fixed by the competent authority.” However, there is no legal regulation in Mongolian legislation with respect to provision of leave for mothers before and after confinement.

Article 4 of the Convention provides “While absent from work on maternity leave the woman shall be entitled to receive cash and medical benefits and the rates of cash benefit shall be fixed by national laws or regulations so as to ensure benefits sufficient for the full and healthy maintenance of herself and her child in accordance with a suitable

standard of living.” However the Labor Law has no provision with respect to provision of cash benefit for parents with an infant who are on leave after or before confinement for the duration of their leave. Article 19.2 of the Law on Pensions and Benefits from the Social Insurance Fund provides “pre-natal and post-natal benefit shall be given to the mother who is covered by benefit insurance and has paid its premiums and who is a state employee or works based on an employment agreement, for the period of 4 months from the social insurance fund at the rate of 70 percent of the average salary in last 12 months that the benefit premium was paid” and “pre-natal and post-natal benefit shall be given to the mother who is voluntarily covered in benefit insurance, for the period of 4 months from the social insurance fund at the rate of 70 percent of the average salary in last 12 months that the benefit premium was paid or other equivalent income.” Inaccessibility of additional benefit to a mother who is on 4-month or 120-working day leave and insufficiency of benefits for daily food and nutrition requirements leads Mongolia’s failure to fulfill its obligation as a party to the Maternity Protection Convention No. 103.

The General recommendation No. 16 (tenth session, 1991) of the Committee on the Elimination of Discrimination Against Women “Taking into consideration that a high percentage of women in the States Parties work without payment, social security and social benefits in enterprises owned usually by a male member of the family, recommends to take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits.” There is no legal regulation in Mongolian legislation for evaluating the labor of women who work on farming, cattle breeding, and private manufacturing and servicing sectors, and provision of social welfare services for them.

In order to ensure the equality of men and women in employment provided for by international treaties, it is required to create legal regulation of training and re-training of women who have taken pre-natal and post-natal leave or other leave due to illness caused by reproduction activities in national legislation.

“In all actions concerning children ... the best interests of the child shall be a primary consideration” provided in Article 3.1 of the Convention on the Rights of the Child is the primary principle of the Convention. Article 111.5 of the Law on Court Decision Enforcement provides “The convict who has given birth while serving an imprisonment sentence may be allowed to be with her 0-1-year old child.” However, as the provision is legal regulation that doesn’t comply with the principle of the Convention on the Rights of the Child and could lead to a violation of the rights of child, it is recommended to create optimal regulation with respect to this issue.

The provisions of Article 24 of Law on Family (1999) “A child’s first name, last name, and clan name” and Article 24.3 “A child shall adopt his/her father’s or last name” contradict with Article 24.1 “Parents shall give a first name and last name to their child based after they agree thereon” as well as violates Article 5 (a) of the Convention on the Elimination of All Forms of Discrimination Against Women “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes”

Women's Participation. Article 2 of the Convention on the Political Rights of Women specifies “Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination” and Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women provides “States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.” Moreover, the Article 16.9 of the Constitution ensures that a Mongolian citizen has the “... right to vote and to be elected to state bodies” without any discrimination.

Moreover, we emphasize that the repeal of the provision of the Law on Parliament that requires that no less than 30 percent of nominees from parties and coalitions be women, was a step backward in adopting temporary special measures aimed at accelerating de facto equality between men and women set forth in Article 4 of the Convention on Elimination of All Forms of Discrimination Against Women.

Violence Against Women and Sexual Exploitation. Articles 1, 2, 4, 7, 16, and 17 of the Universal Declaration of Human rights and Article 8.2 of the International Covenant on Civil and Political Rights “No one shall be held in servitude,” Article 17 “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks,” and Article 26 “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law” ensure the freedom of everyone, in particular, women from violence and right to the protection of the law in the case of violence.

The Declaration on the Elimination of Violence Against Women adopted by the United Nations General Assembly in 1993 became a document of dual nature of law and customs that gives deeper understanding of the provisions of the above international instruments and determines a methodology for implementing them. Article 1 of the Declaration defines “violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

The Law on the Fight Against Domestic Violence adopted in 2004 was a crucial step in addressing pressing issues of women. However, there is a need to revise some of the provisions of the law and in particular, clearly define punishment for perpetrators, taking account of the provisions of the Declaration on the Elimination of Violence Against Women.

Article 17 of the General recommendation No. 19 (1992) of the Committee on the Elimination of Discrimination Against Women, specifies “Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace” and urges the States Parties to take effective action against

such violence. There is a lack of legal regulation of imposing punishment on perpetrators of crimes of sexual harassment at the workplace in nature.

The Law on the Fight Against Pornography was adopted and means of fighting this kind of crimes were enacted in 1998 and however, there are issues with regard to legal regulation that need due consideration. Provision “Prostitution is prohibited” of Article 4.1 of the Law is ineffective regulation of the fight to pornography and helps prostitution go underground thus, providing conditions for a serious violation of the rights of women. Also, provision “The police shall officially notify administration of an institution where the prostitute worked or studied, and the governor of a relevant khoroo, bag, soum, or district, if the prostitute isn’t employed, doesn’t to school/college, or has no definite address of residence of the violation or to announce it publicly” of Article 12.2 is contrary to the privacy, dignity, and reputation guaranteed by the international human rights treaties and conventions.

CHAPTER THREE

ENVIRONMENT AND PUBLIC RIGHTS

Environment and Public Rights

The United Nation has held a number of world summits of the heads of state and government over the last decade for the purpose of protecting the environment and “World summit” held in Rio de Janeiro in 1992 was of significant importance. The summit issued policy documents – the Rio Declaration on Environment and Development and Agenda 21 – contained the Convention on Climate Change and Convention on Biological Diversity and 27 primary principles that is guidance for the future world development.

Mongolia acceded to the conventions such as the Convention on Biological Diversity and Convention on Climate Change in 1993, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Vienna Convention for the Protection of the Ozone Layer, and convention to combat desertification in countries seriously affected by drought and desertification, particularly, in Africa and this provided impetus to the protection of the environment.

The protection of the environment is instrumental in preventing ecological insecurity and environmental imbalance and violations of public rights.

Article 16.2 of the Constitution provides “the right to live in a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance.” Numerous factors affect the realization of this right and in particular, desertification, shortage of water resource, inadequate use of chemicals that lead to ecological imbalance become pressing issues for Mongolia.

National legislation such as the Law on the Protection of the Environment (1995), Land Fee Law (1997), Law on Land Ownership by Mongolian Citizens (2002), Law on Special Protected Areas (1994), Law on Regional Zones in Special Protected Areas (1997), Water Law (2004), Spa Law (2003), Air Law (1995), Forest Law (2007), Natural Plantation Law (1995), Plant Protection Law (1996), Fauna Law (2000), Subsoil Law (1988), Minerals Law (2006), Law on Toxic and Hazardous Chemicals (2006), Law on Supervision of Movement of Explosives and Blasting Agents (2004), Law on Household and Industrial Waste (2003), Law on Prohibition of Hazardous Waste Importation, Cross-Border Shipment, and Exportation (2000), Law on Environmental Impact Assessment (1998), and Law on Protection of Forest and Steppe from Fires (1996) were adopted with respect to the protection of the environment.

Additionally, about 34 policy documents such as Mongolia’s Public Policy on Ecology (1997), National Program on Public Ecological Education (1997), National Program on Environmental Activities (2001), National Program Combat Desertification (2003), Public Policy on Water (2005), and National Program Green wall (2005) were adopted. The program implementation is still in process.

Ecological security and the right to protection from ecological imbalance

Both natural and human factors have impact on ecological imbalance. Climate change, desertification, soil erosion, and soil, water, and air pollution, industrial activities, lack of reclamation, decrease in forest, river and stream, lake, and pond drying-up become factors causing ecological imbalance and violations of human rights to a safe and healthy environment.

Public Policy on Ecology provides “It aims to rehabilitate natural resources, protect the appearance of the nature, and ensure that citizens live in a safe and healthy environment by developing both conventional and universal modern sectors conducive to appropriate utilization of recourses based on comparative advantages of natural resources” and “convert national legislation on the protection of the environmental into comprehensive legal concepts that guarantee a happy life in a safe and healthy environment for the population as the economic capacity and social and cultural development increase” and they are an important objective for ensuring the rights of citizens to protection from ecological imbalance.

Article 1.2 of the International Covenant on Economic, Social and Cultural Rights it is mentioned that “All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”

Although exploration and mining of minerals have grown and business entities and individuals received significant profits from the mining industry as a result of public policy that promotes mining and foreign investment into the mining industry, environmental reclamation has been left out. For instance, according to reports received from 14 aimags on reclamation of natural resources, 251 business entities mined minerals and carried out technical reclamation in 1,751.2 hectares of land and biological restoration in 500.7 hectares of land and reclamation was left out in the remaining 143,922.6 hectares of land in January 2008. This results in river and stream drying-up in pastures and hay-making areas where generations of herders settle down and they end up leaving the land where they are used to living.

... As most land in bag 3, Zaamar soum, Tuv aimag was included in tenements of almost 20 companies licensed to explore mineral resources, it made impossible for this bag consisting of 81 families with 19.3 thousand animals to continue to live in their land lose and have access to the pastures and hay-making areas with the exception of a single strip they could drive their animals through to water them in Tuul river. In this soum, 20 business entities mined minerals in 2,500 hectares of land 1,650 out of which were rehabilitated but 850 hectares weren't. LLCs, such as Khuslemj, Monjap, T and Ch, Avraga Toson, Orgil Munkh, Temuulel, and Erel that mined minerals in Zaamar soum carried out no reclamation in their tenements.

Summer camps and hay-making areas of 3-4 families in Onon bag, Batshireet soum, Khentii aimag were included in licensed tenements of “U and B” LLC ...

4 wells in Khartolgoi, Shine Usn, and Kharzag, main water sources for local herders and animals were included in the tenements, when issuing over 30 mining licenses in Bayan Ovoot soum, Umnugobi aimag. Enkh LLC fenced the land along with the wells which had been used for herder B and other families over 40 years but dug no wells for them where they could access water thus, making them experience a shortage of water ...

... Due to exploration and mining of companies in areas with water reservoir and water basin for Ongi river, Uyanga soum, Uvurkhangai aimag, local herders' households had to leave their land.

Pictures of 10-40-meter deep holes in the ground, 10-30-meter high earth piles, and almost 2-meter ditches round exploration tenements in local areas badly affected by exploration mining are commonplace. This situation brings about a danger that persons and animals might fall down into such and ditches and get injured.

Reclamation isn't being carried out as provided in the law. For instance, as the holes are being filled up with yellow earth soil only without meeting the requirements described in Article 28.4 of the Subsoil Law "strip off, utilize, and store fertile soil, and use mountain rocks in the course of utilization of mineral resources deposits," this area makes biological reclamation difficult. Because of inadequate reclamation, many "loose dust" piles, pools, hollows, and cracks are created.

... In Uguumur village, Zaamar soum, Tuv aimag, when strong winds blow, loose dust gets up and brings dark fog ...

Local administrative authorities fail to effectively exercise their powers "to supervise the exercise of the license holder's obligation to protect the environment, rehabilitate, and protect public health," Article 12.1.3 of the Law on Minerals, and "not issue a license to start his/her operations in the following year together with the local specialized inspection authority in the event reclamation hasn't been completed," Article 39.7, reclamation isn't being carried out as provided in the law.

Mining licenses are being issued for exploration and mining in local special protected areas, those where there is watershed, water reservoir, forest, and rare and endangered plants, and settlements.

... A survey carried out by the Geo-Ecological Institute, Academy of Sciences, to define grounds to include the basin of Shirdeg river, Nariin Khamar, Tsenkher soum, Arkhangai aimag in special protected areas for which exploration and mining licenses have been issued

⁴³ It provides that a) integrate consideration of the conservation and sustainable use of biological resources into national decision-making and b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity.

⁴⁴ Allowing citizens and business entities to hold an area endangered species of wild flora for the purposes other than their protection and reclamation is prohibited.

revealed that currents of the rivers decreased owing to mining of an open gold pit in the area round Suvraga Khaikhan mountain and ecological environment deteriorated. The surveyors proposed 39,100 hectares of land in Tsenkher soum, Arkhangai aimag should be brought under aimag special protection. Nevertheless, the Citizens' Representatives' Hural, Tsenkher soum, Arkhangai aimag, issued a license for Mongol Gazar LLC to mine gold in Nariin Khamar valley ignoring the proposal made by the surveyors and in consequence, local citizens protested and brought the case to court but they didn't succeed. The act of issuing the gold mining license in Nariin Khamar valley with endangered species of wild fauna and flora, violated Article 10⁴³ of the Convention on Biological Diversity and Article 7.5⁴⁴ of the Natural Plantation Law.

Desertification

Melting glacier, surface water drying-up, degeneration of pasture vegetation, salt increase in water and soil, declining fertility, sand movement increase, and desertification become widespread because of global warming, climate change, and inappropriate human actions.

The substantial use of woody plants, bushes, and sagebrush by local communities residing in areas such as aimag and soum centers and settlements in Gobi and steppe areas for fuel from the surrounding areas directly contributes to intensification of desertification. 125,000-hectare saxaul-forest that is an important factor that restricts sand movements has been destroyed in recent years.

Over 90 percent of the territory of Mongolia has a dry and semi-dry climate. 41.3 percent or 647,000 km² of the territory is in danger of desertification due to climatic and human factors and increasingly expands. Desertification grows in central and urban areas and 145 settlements have been affected by desertification in Gobi and steppe regions.⁴⁵

Desertification Trends in Arid Areas

Category and scope of desertification	1990	2000
Slightly desertified areas	76.0	34.9
Moderately desertified areas	20.0	38.7
Severely desertified areas	3.0	16.1
Extremely desertified areas	1.0	1.2
Hyper-arid and desert areas	-	8.3
Sum of arid areas	41.3	44.7

Given the above, arid areas have increased by 3.4 percent, severely desertified areas by 5.4 times, and extremely desertified areas by 1.8 times respectively in 1990-2000.

The ecosystem of the steppe zones that make up 33.8 percent of the total territory of Mongolia highly deteriorated and 2 percent extremely deteriorated due to inappropriate human actions in 2000.⁴⁶

⁴⁵ Summary of the Current Situation of the Environment of Mongolia, D. Myagmarsuren, 2006

⁴⁶ National Program to Combat Desertification adopted by 2003 Government Resolution No. 141

The revised version of the National Program to Combat Desertification adopted by Government Resolution No. 141 in 2003 identified comprehensive issues aimed to analyze the current situation of desertification, improve legislation and management in reducing desertification, and strengthen national capacity to combat desertification, and approved the first-phase plan to address them. The function to implement and supervise the program nationwide was given to the National Committee Against Desertification, Ministry of Environment (MoE) and function to implement the program in local areas to the environment authorities and food and agriculture and specialized inspection authorities. A specific feature of the program is to ensure participation of civil society organizations and local citizens in fighting against desertification. Moreover, in connection with this issue, programs such as the Forest Program, Water Program, Program on Reduction of Natural Calamities, and Green Wall Program are adopted and the program implementation is ongoing.

The implementation of legislation, policy and programs is inadequate. For instance, ministries and agencies other than the Ministry of Environment and Ministry of Food and Agriculture fail to submit reports on the activities they have conducted in fighting against desertification to the National Committee Against Desertification. Actions aimed to combat desertification can succeed if they are conducted based on surveys and citizens' participation.

Governments promote cooperation with international organizations and countries in the regions in combating and reducing desertification as Article 4.2 of the Convention to Combat Desertification provides "Priority will be given to ensuring coordinating international cooperation for the purposes of implementing priority provisions of the Convention." In addition, programs and projects on reduction of desertification and sustainable land management being implemented in cooperation with UNDP have proved to be effective.

Numerous measures are being taken in central and local areas in fight against desertification. Tg 3,788,780,400 have been expended on plant protection, fight against pests and mice, and forest reclamation. Actions such as implementation of projects by the Swiss Development Agency projects in Gobi-Altai, Khovd, and Bayankhongor aimags severely affected by desertification, establishment of forest strips in Zamiin-Uud soum, Dornogobi aimag, Dariganga soum, Sukhbaatar aimag, and Khukh Morit soum, Gobi-Altai aimag, to slow down sand movements and protect water sources, and planting of bushes, shrubs, and trees in the framework of the Green Wall Program.

The Government has taken measures to protect 89,702,700 hectares of agricultural land, 7,730,800 hectares of pastures and other grassland, 17,672,400 hectares of urban and settlement areas, 67,779,300 hectares of forest resource land, 958,400 hectares of water reservoir land, and 18,547 000 hectares of mining land for purposes of fighting against pasture and land degradation. Funds of Tg 649,740,300 were allocated by the national budget and expended on the creation of improved pastures and hay-making areas in agricultural land left fallow because of severe degradation and reuse of such land through increased fertility 2003-2006.⁴⁷

⁴⁷ The report on the 1st half of 2007

Measures aimed to protect spring water sources and to dig wells have been intensified in some aimags in the past 4 years in the framework of the implementation of the National Program to Combat Desertification and Public Policy on Water and according to preliminary reports, 1,169 artesian, short chimney, and typical mine wells are dug in 15 aimags and 1,913 wells were renovated and some pastures were irrigated in 14 aimags and however, local initiative to use basins fully, protect surface spring water, and utilize water resources efficiently are inadequate. We mentioned earlier that minerals exploration and mining licenses had been issued for tenements in areas with water sources and water reservoir thus, promoting intensification of desertification. In addition, though it is possible to increase water resource by adjusting river currents and accumulating rainwater and water of snow, no action has been taken to increase water resources.

Right to water and factors affecting reduction and pollution of water reserves

Accessibility to water per person is 13,739 m³ in Mongolia and with this indicator it is in the 56th place among 182 countries in the world. In other words, it has 599 km³ of river resources and 500 km³ out of which are in lakes, 62.9 km³ in glaciations, and 34.6 km³ in underground river supplies. There is 4.5 m³ of water per person in the Gobi regions and 46 m³ in central and northern areas. About 80 percent of water resources are underground water and studies show that Mongolia supplies 90 percent of its annual water demand with underground water.⁴⁸

Whereas there were 40,870 water points using underground water in 2003 the number rose up to 42,324 in 2007 by 3.6 percent following the water census. The number of water points with engineering structure grew up to 21,925 by 12.7 percent compared with that in the previous 4 years and on the contrary, the number of typical mine wells decreased from 21,140 in 2003 up to 20,399 by 4.7 percent in 2007.⁴⁹ This is associated with aridness and decline in the water level in most areas in recent years. According to the 2007 water census, there were few rivers and streams in Gobi aimags and some of them had no rivers and streams at all.

... There are no rivers and streams in Dornogobi aimag with 1 in Dundgobi and Gobisumber aimags and 3 in Umnugobi aimag ...

... Whereas there were 4,781 rivers and streams with 67,000 km³ of water in 2003 according to the water census, the number decreased up to 4,276 by 505 or 10.6 percent in 2007, number of lakes and salt marshes dropped from 3,433 in 2003 to 2,566 in 2007 by 867 or 25.3 percent and that of springs from 8,424 in 2003 to 7,029 in 2007 by 1,395 or 16.6 percent ...

The national water demand that was 450 million km³ 3-4 years ago increases year by year. 30.8 percent of drinking water was supplied through the central water distribution

⁴⁸ Summary of the Current Situation of the Environment of Mongolia, D. Myagmarsuren, 2006, p. 15

⁴⁹ Preliminary Results of the Water Census, 2008

system and 24.2 percent water delivery, and 35.7 percent through water distribution points and wells, 9.1 percent from springs, rivers, streams, snow, and ice in 2004.⁵⁰ As underground water renewability takes a long time, it is important to pursue policy on efficient not excessive use of water depending on its renewability.

Article 5 of the Sanitation Law (1998) provides “Local administrative authorities, water authorities, business entities, and individuals shall take measures to determine protection zones at water sources, water distribution network, water supply pool, pumping station, water distribution locations used as drinking and household water sources for communities, according to relevant rules, and protect them from pollution and infection. Specific objectives thereof were set forth in the National Program on Food Supply, Safety, and Nutrition. However, studies demonstrate that the implementation of legislation and programs is inadequate.

A joint team of the WHO, MoH and University of Health Science (UoHS) conducted water quality and health evaluation in 127 springs in 6 areas such central, Gobi, northern, western, and eastern regions, and Ulaanbaatar in 2005 and revealed that 67.7 percent of the water examined was clear and 22.8 percent turbid. Given the evaluation by regions, whereas 100 percent of water in the northern region was clean, 46.4 of water from 28 springs in Ulaanbaatar, 60 percent in Orkhon aimag and 40 percent in Bayankhongor aimag were turbid respectively. Whereas 7.9 percent were protected by rocks, 11 by metal, and 3.1 by wood, 99 springs or 78 percent weren’t protected at all.

Illegal actions such as disposing of household and industrial waste near rivers, springs, lakes, and ponds, washing cars in rivers, inefficient use of water, and construction of buildings near spring water sources, lead to river water pollution and reduction in its reserves. According to the studies conducted by professional organizations in late 2007, the water of Tuul river is highly polluted.

Professional organizations concluded that 20 percent of the population consumes highly mineralized water and 68.2 percent water with the low level of iodine and fluoride. This results in an increase in urolith, nephrolithiasis, teeth decay, and goiter.

Inappropriate mining of minerals, in particular, gold, contributes to reduction of surface water and deterioration of water quality. For instance, the use of water from Olziit, Teel, and Ul rivers, Tsenkher soum, Arkhangai aimag, has had substantial negative effects not only on Orkhon river but also the forest-steppe ecosystem, Khangai mountain range. Inspection conducted jointly by a working group of the Parliament and civil society organizations on water spurting in August 2007 revealed that 31 small rivers flowing into Ongi river, 4 rivers joining Orkhon river, and 29 springs dried up due to gold mining.

Washing 1 m³ of sand requires about 4-6 tons of water depending on the sand content of clay. Business entities and individuals mining gold redirect and block the course of rivers without using blueprints approved by professional organizations and taking measures to

⁵⁰ Materials from the National Forum of Human Rights Institutions held under the auspices of the President of Mongolia, 2005

prevent filtration and this leads to diminishing of river water, decline in the oxygen content in river water, and extinction of fish and microorganisms. A temperature most favorable for clear water organisms is 4-9 Celsius and rises but as the temperature goes up rapidly in warm seasons the number of fish with symptoms of red rashes rises.

... A large number of fish died in Tuul river in fall and spring in 2007 in the area of gold mining in Zaamar according to a study conducted in Zaamar soum ...

The rules on protection of water resources provides “after water used for mining and washing sand and gravel is purified until it reaches 15 ml, it can be mixed with surface water” but in most cases, those mining gold let water with 2-3-fold excessive weighable substance content higher join rivers. Water guns and scrubber technology are extensively used in mining gold in gold pits by washing sand containing gold with water and extracting metal precipitated by gravity force and they are 90 percent dependent on water and out-of-date technology. Thus, it is essential to introduce advanced up-to-date technology in gold mining.

We emphasize provision “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction” set forth in Article 3 of the Biological Diversity Convention.

Inappropriate use of toxic and hazardous chemicals in the mining industry

Relations arising from of exportation, importation, cross-border shipment, manufacturing, sale, storage, local transportation, and use and destruction of toxic and hazardous chemicals are regulated by the Law on Toxic and Hazardous Chemicals, Government resolutions on some measures aimed to ensure safety of chemicals, list of ports that allow cross-border shipment of toxic and hazardous chemicals, list of prohibited and restricted chemicals in Mongolia adopted No 29 in 2000, No 296 in 2006, and No 95 in 2007 respectively, and regulations on storage, transportation, and destruction of toxic and hazardous chemicals approved by joint resolution No. 151/126/52 of the Minister of the Environment, Minister of Health, and Minister of Emergency in 2007.

The MoE has granted permits to import, use, and sell toxic and hazardous chemicals to an 196 business entities and organizations in 2007. It reduced the number of business entities holding permits to use cyanide natrium that was 9 in 2006 in 2007 and issued permits to import and use it to 3 business entities (Boroo Gold LLC, MJH LLC, and Ten Khun LLC) and permit to use it to 1 business entity (Buman Trade LLC) respectively.

Since 2000 the MoE has held chemicals census and inspection 4 times. According to results of the 2007 census and inspection, Ulaanbaatar and Khovd aimag had 70 percent

of chemicals and Orkhon aimag 24. However, no results were provided with respect to use of chemicals in industries other than the mining industry and health and education sectors.

There are numerous negative consequences owing to recent disorderly use of chemicals in recent years.

... Anand International LLC had been washing waste and earth containing gold with water with chemicals in pastoral and haymaking land without a relevant permit and storing the used earth in a hole covering it with cellophane in Bornuur soum, Tuv aimag, in 2006-2007, and in the Central Geological Laboratory and Water Laboratory, Geo-Ecological Institute, revealed cyanide natrium when they tested its sample ...

... Also, individuals mining gold manually had been washing earth containing gold with mercury in this soum ...

Inspection conducted by a joint team of the MoE, General Emergency Department (GED), MRPA, SSIA, and SID on toxic and hazardous chemicals and revealed that 203,208.8 m³ of land was polluted with chemical waste in 12 points in 53.5-hectare land.

The use of cyanide natrium more toxic than mercury has tended to rise in primary deposits in recent years.

The extensive legal and illegal use of toxic and hazardous chemicals with and without licenses in mining gold in the formal and informal economies in Selenge, Tuv, Umnugobi, Dornogobi, Bayankhongor, Sukhbaatar, and Darkhan-Uul aimags has attracted attention. The law-enforcement agencies discovered that individual mining gold manually had been milling rocks containing gold by using mercury in these aimags and thus, they confiscated over 130 out of 160 mills and transferred them to a metallurgical plant for recycling. These individuals had been intoxicating themselves and communities by using it without relevant licenses and knowledge about the rules on use of toxic and hazardous chemicals.

It has become common for families of individuals mining gold manually to have babies with cerebral palsy, speech, nervous, and mental disorders, disability to walk, and impairment, and this indicates that toxic chemicals have adverse effects on the genetic fund of Mongolians.

Recommendations made based on the report on the environment and public rights:

1. To conduct environmental reclamation according to the law, (the Government) oblige its relevant agencies to apply appropriate professional and local supervision on reclamation activities, and tighten liability for agencies and officials who fail to fulfill their legal obligations;
2. To research a possibility of making a separate law to combat desertification;
3. To provide adequate supervision and monitoring over use of water by increasing the value of water and installing meters in entities and households, and protect water sources;
4. To change the system that allows the MoE to decide whether to change and redirect the course of rivers and create legal regulation that will allow the Parliament to discuss and decide this issue;
5. To operate professional laboratories at ports obliged to allow cross-border entries of toxic and hazardous chemicals, determine chemicals destruction points, improve supervision and monitoring over use of chemicals, and take action to increase public awareness on dangers of chemicals.

CHAPTER FOUR

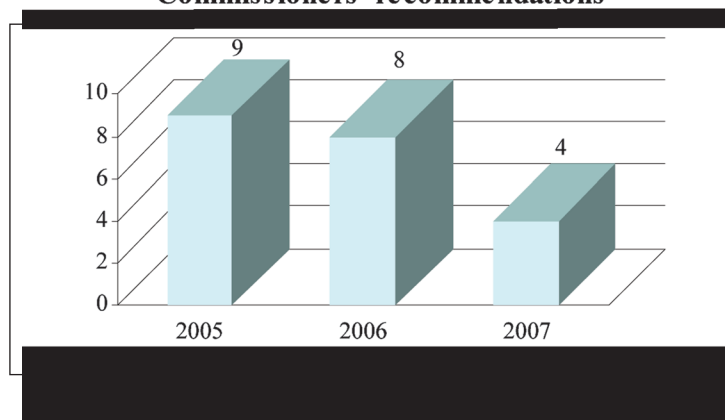
APPENDIXES

- Profile on NHRC activities

1. Requests and Recommendations of the Commission

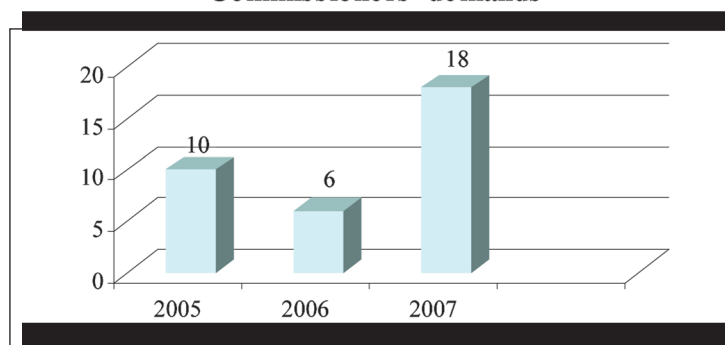
Article 19.2 of the Law on the NHRCM provides “If the Commissioner believes that a business entity, institution, or official has violated human rights and freedoms, he/she shall write and refer a demand to the business entity, institution, or official concerned to ensure that violated human rights and freedoms are restored and the latter eliminate the violations,” and Article 19.3 “If action of a business entity, institution, or official may violate human rights and freedoms, the Commissioner shall make a recommendation within the bounds of his/her authority and refer it to the business entity, institution, or official concerned.”

Commissioners' recommendations



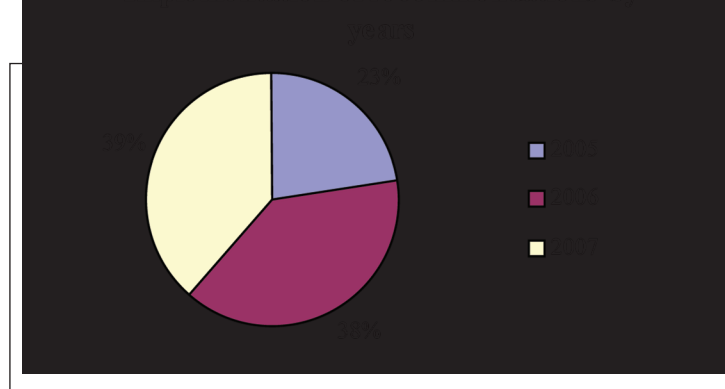
9, 8, and 4 recommendations were submitted to relevant institutions and officials in 2005, 2006, and 2007 respectively. The number varied from year to year depending on the focused right of the Commission for that certain year.

Commissioners' demands

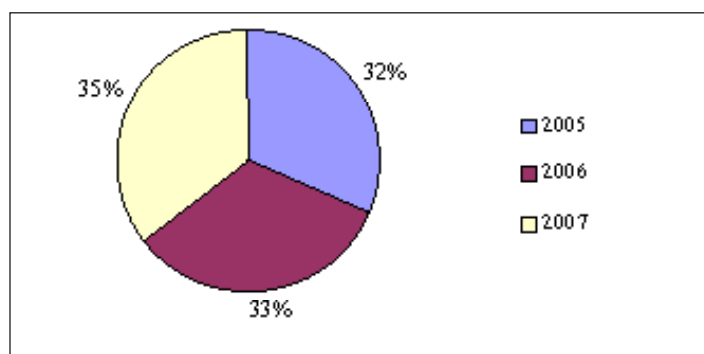


10, 6, and 18 demands were submitted to relevant institutions and officials in 2005, 2006, and 2007 respectively.

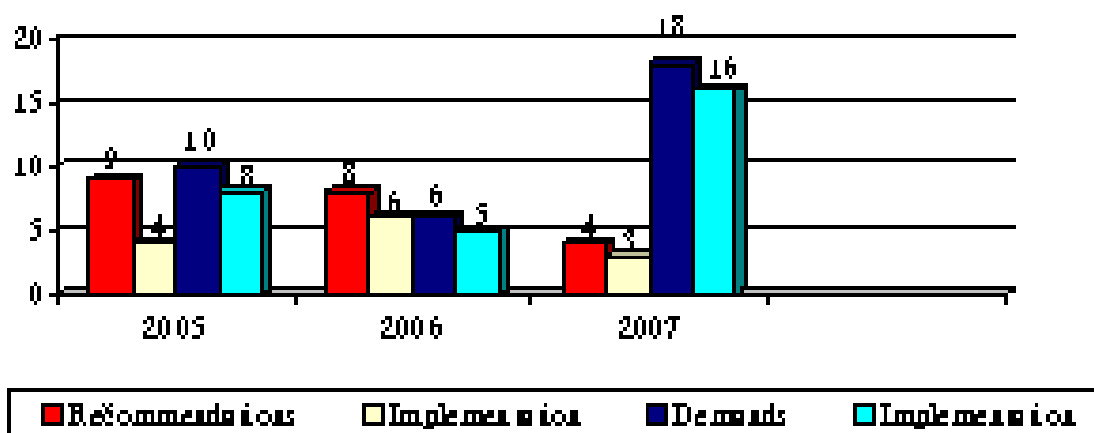
Implementation of recommendations



The implementation of recommendations accounts for 75 percent in 2006 and 2007. As a recommendation reminds an institution or official about a possible violation of human rights and makes a suggestion, the implementation is comparatively lower than that of demands.

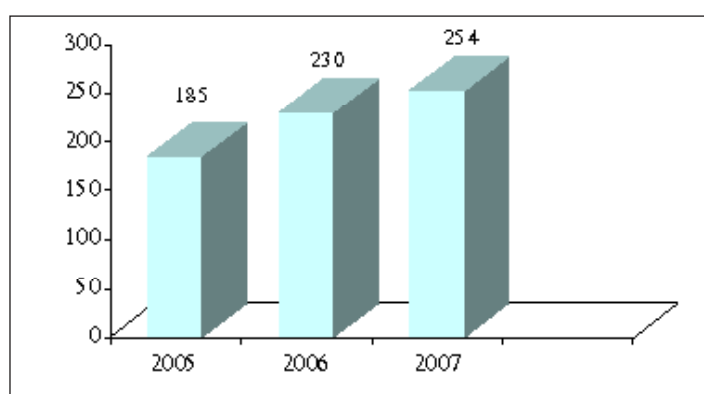
Implementation of demands

Whereas the implementation of demands accounted for 80-83.5 percent in 2005 and 2006, it reached 90 percent in 2007.

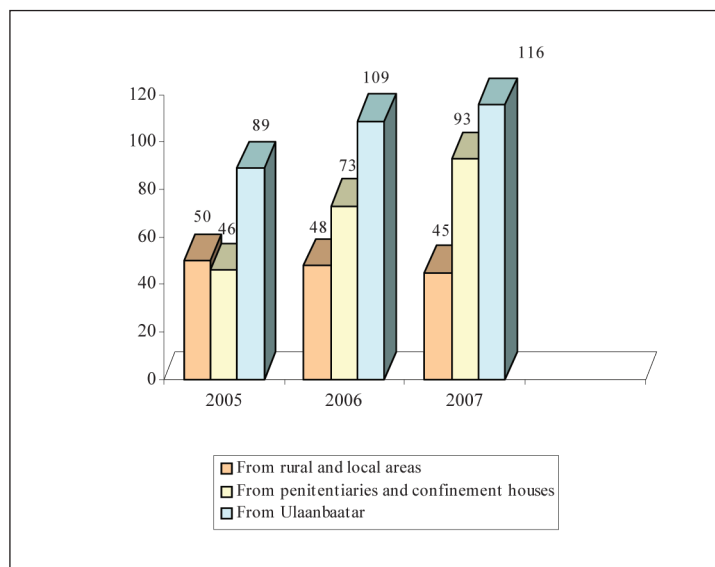
Summary of all demands and recommendations and their implementation

2. Review of complaints

Chapter 3 of the Law on the NHRC provides procedure for filing and review of complaints.

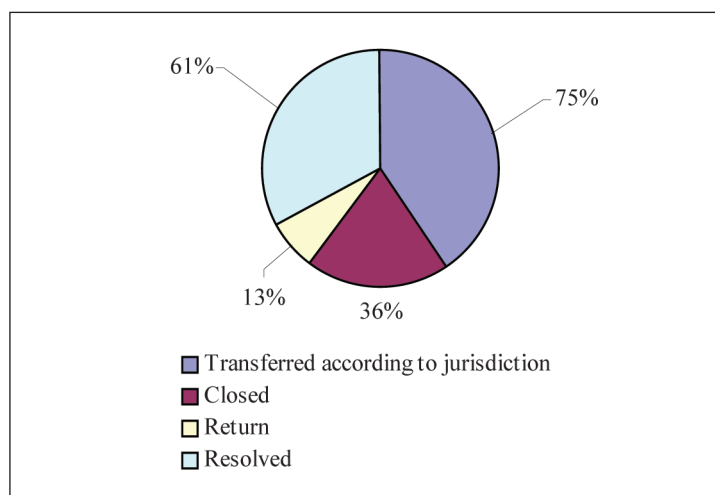
Complaints submitted

The rise in the number of complaints submitted to the Commission shows that the awareness of activities of the Commission has increased and its reputation grown among citizens, business entities, and institutions.



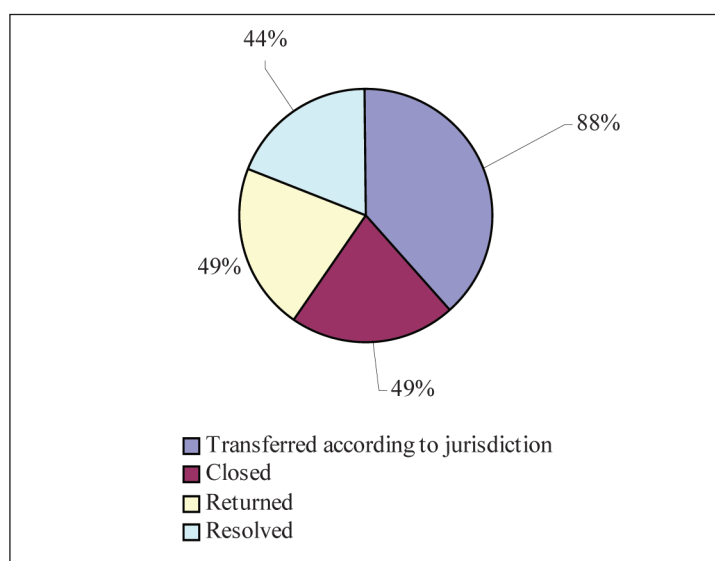
Since the Commission is located in Ulaanbaatar, the majority of complaints (89 complaints or 48.1 percent in 2005, 109 or 47.3 percent in 2006, and 116 or 45.3 percent in 2007) was submitted by citizens, business entities, and institutions in Ulaanbaatar, and the number of complaints submitted by those in rural and local areas to the Commission was relatively low owing to a lack of its representation therein.

2005

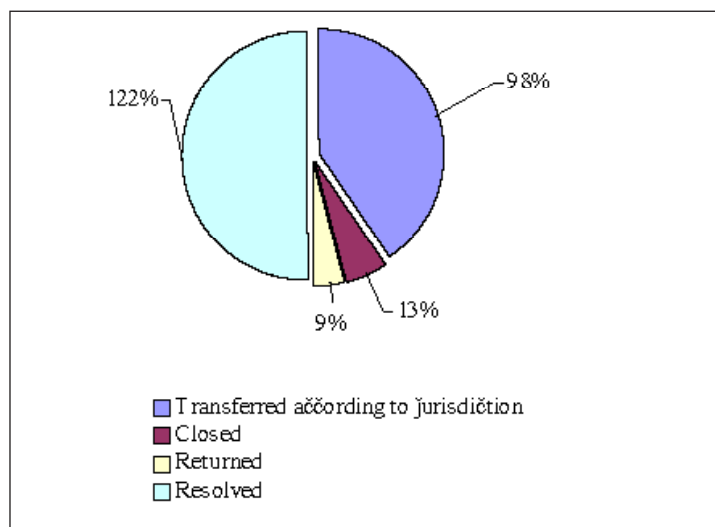


Review of complaints: 75 complaints or 40.5 percent were transferred according to jurisdiction in 2005, 88 or 38.2 percent in 2007.

2006



This was associated with inadequate public awareness about the function of the Commission to review complaints.

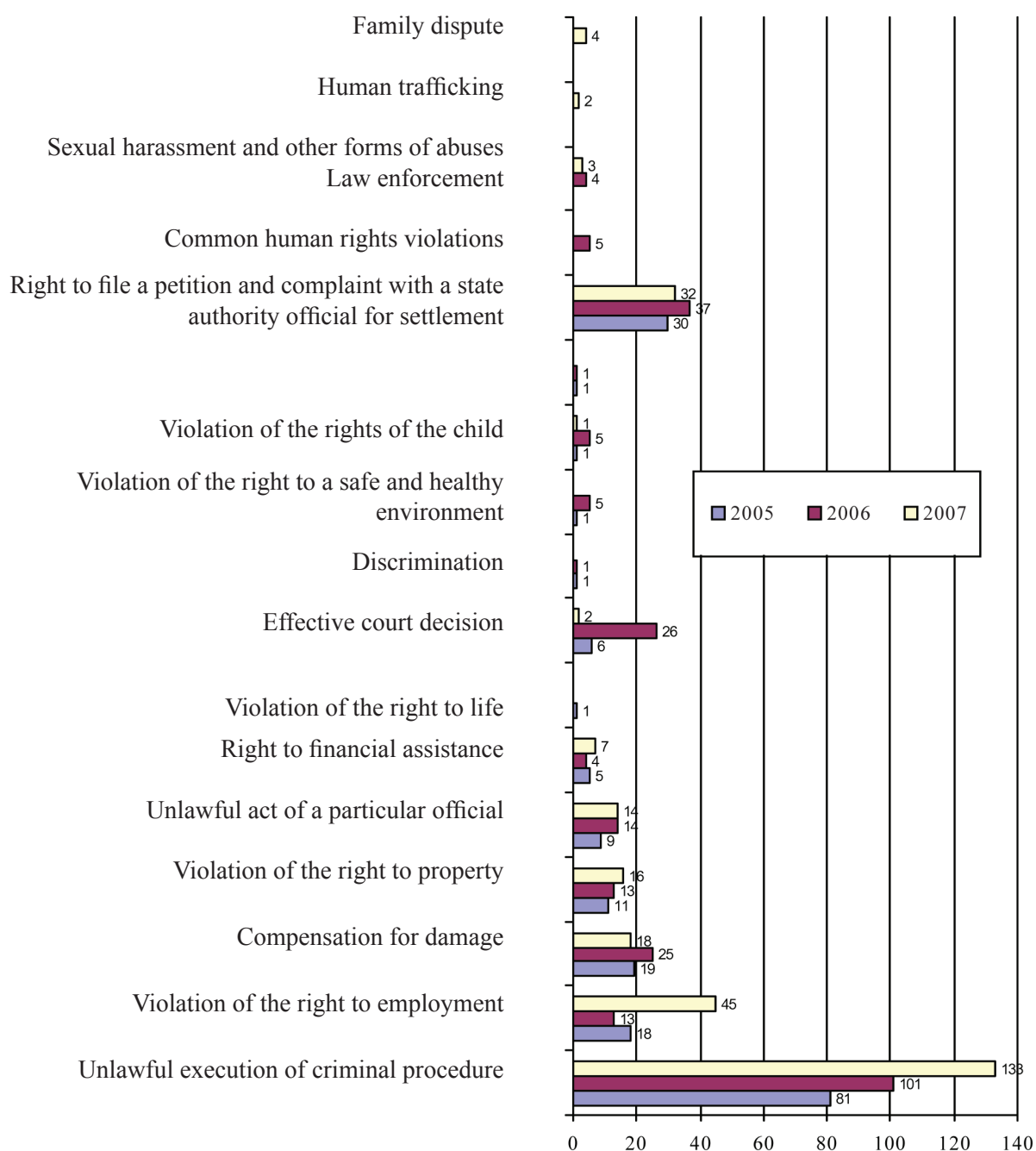


122 complaints or 48 percent of all the complaints were reviewed and fully resolved in 2007. 6 demands and 2 recommendations were made to restore violated rights and 1 complaint lodged to court with the Commission's representative, and it acted as an intermediary 1 complaint and as a result, it reconciled the parties.

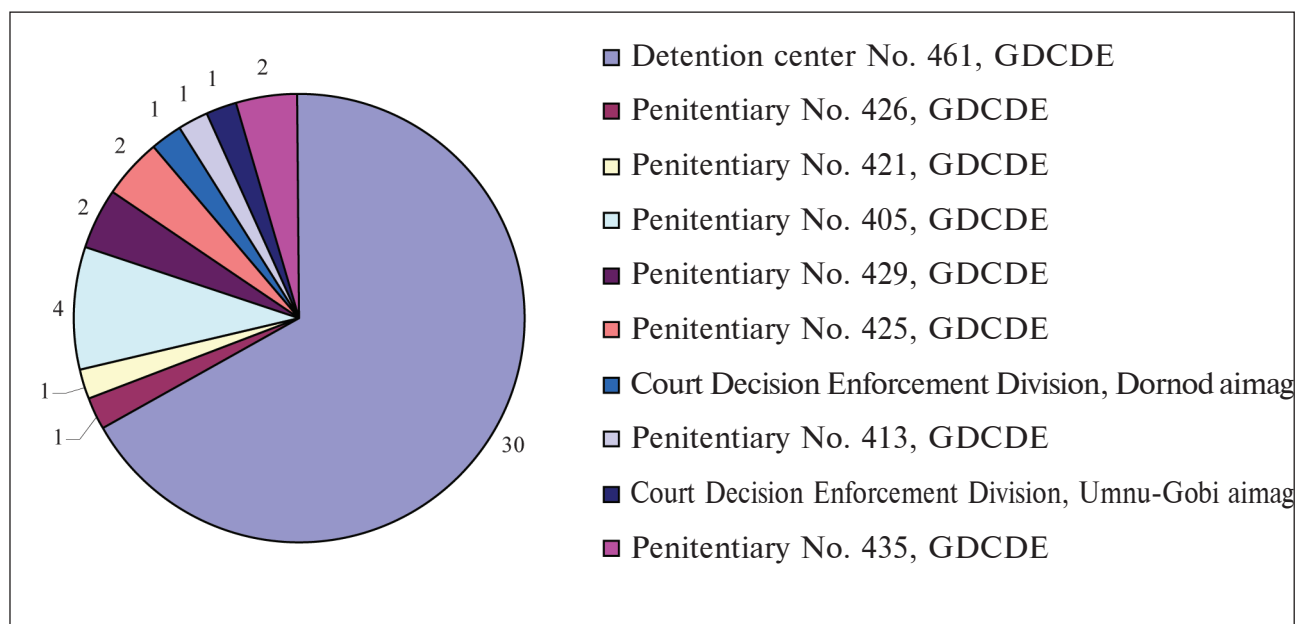
The majority of the requests and complaints submitted to the Commission in 2005, 2006, and 2007 (81 complaints or 43.7 percent in 2005, 101 or 43.9 percent in 2006, and 133 or 52.3 percent in 2007) accounts for claims about unlawful execution of criminal procedure and trumped-up charges.

On the one hand, we can conclude that relevant officials violate rights of suspects and convicts in the course of criminal procedure. Therefore, it is necessary to hold training and promote knowledge and awareness about the exercise of human rights in the course of criminal procedure among those who execute criminal procedure.

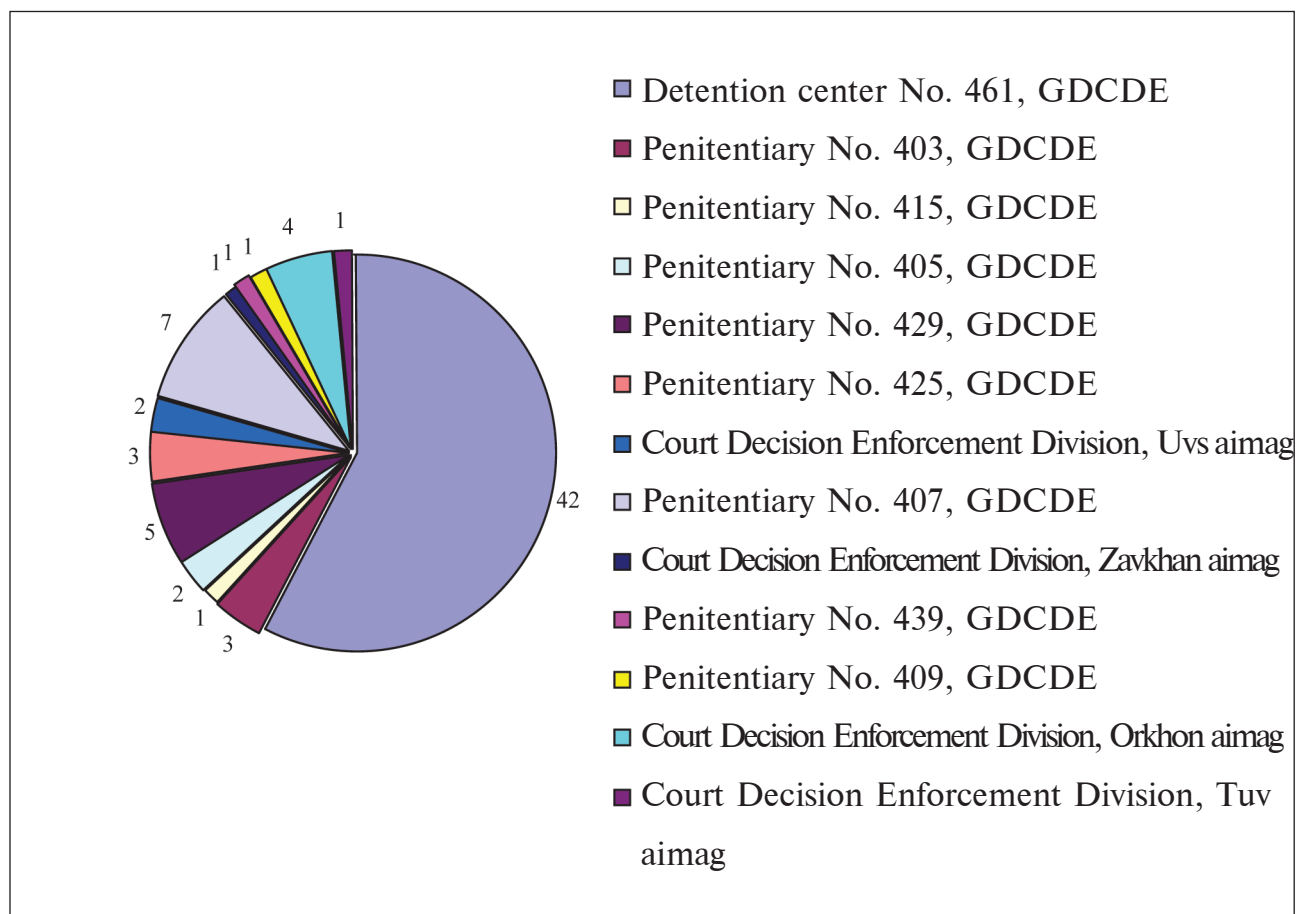
Types of complaints (2005, 2006, and 2007)



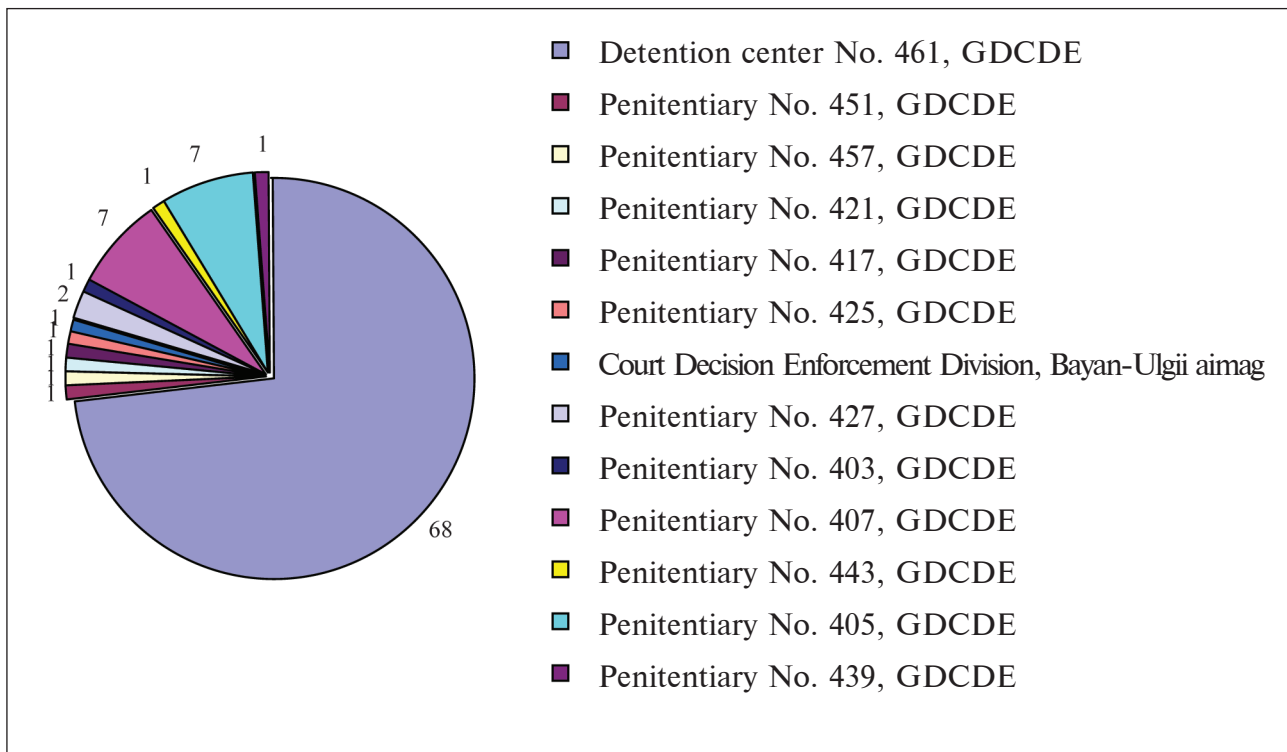
Complaints from detention centers and penitentiaries in 2005



Complaints from detention centers and penitentiaries in 2006



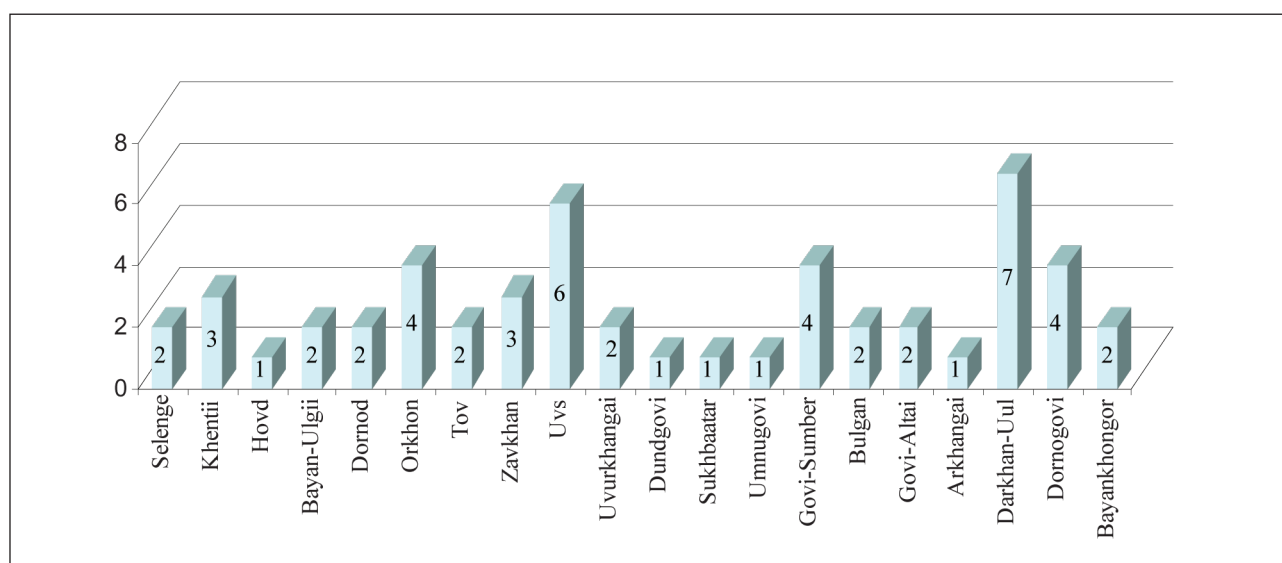
Complaints from detention centers and penitentiaries in 2007



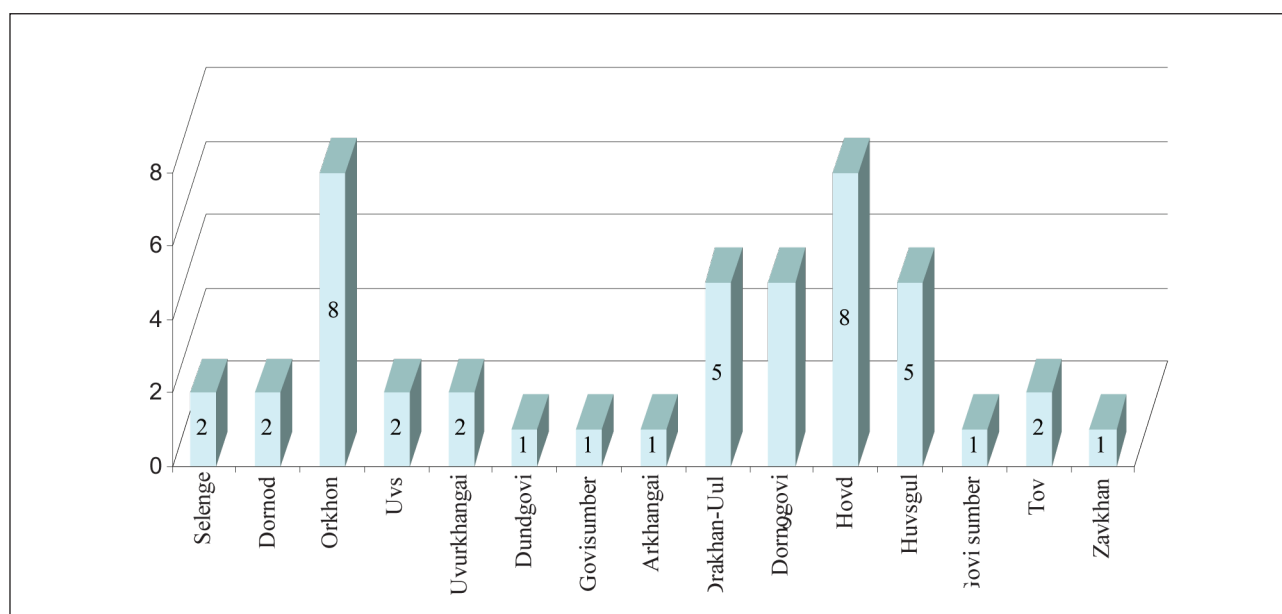
The majority of the complaints from detention centers and penitentiaries submitted to the Commission in 2005, 2006, and 2007 (31 complaints or 67.4 percent in 2005, 42 or 57.5 percent in 2006, and 68 or 78.1 percent in 2007) was referred to by suspects and convicted confined in detention center No. 461, General Department for Court Decision Enforcement (GDCDE).

From the above, we can conclude that the violation of human rights is comparatively high at the inquiry and investigation stages.

Complaints from rural and local areas (2006)



Complaints from rural and local areas (2007)



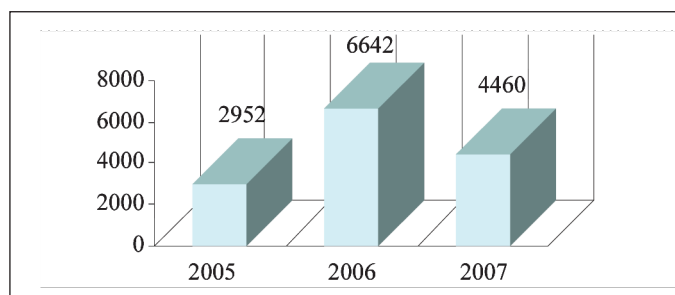
3. Human Rights Education and Training

According to Article 13.2 of the Law on the NHRCM, the Commission shall exercise the following powers:

Article 13.2.4. To increase public awareness about human rights legislation and international treaties;

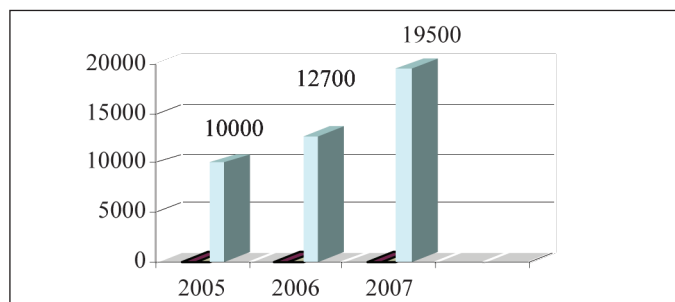
Article 13.2.5. To promote human rights education activities;

Number of participants in training



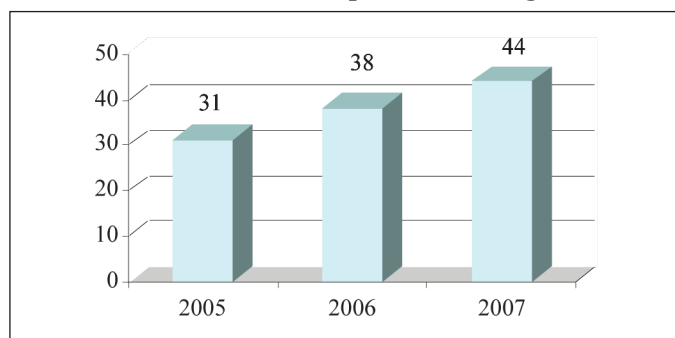
As the Commission held a series of human rights trainings for military personnel from military regiments and divisions of the General Headquarters of Armed Forces (GHAF) and General Department for Border Protection (GDBP) in 2006 and the number of participants was highest at that year.

Books, handbooks and advocacy materials published



The participation and motivation of individuals and institutions to cooperate in holding human rights training and workshops have grown with a wide range of content and topics of human rights education.

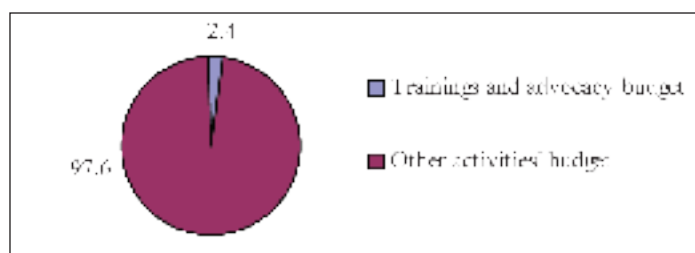
Content and topics of training



Human rights information, inquiry, and advocacy centers operate under the Commission and provide services for the public with human rights books, handbooks and research documents.

The Commission carries out activities in developing, publishing, and distributing human rights training materials for the public.

Training and advocacy budget of the Commission



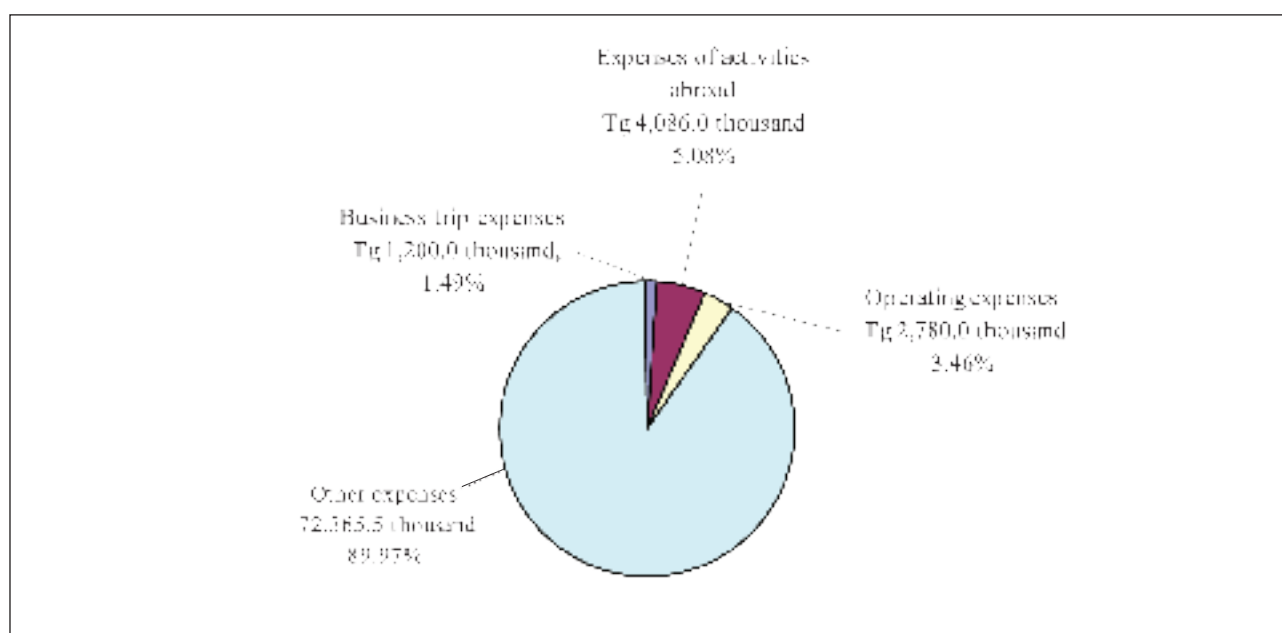
Training and promotion expenses made up 2.4 percent of the Commission's budget or Tg 2,780,000 and the majority of its advocacy and training activities were financed by its projects, international organizations and programs.

4. Operational Expenses

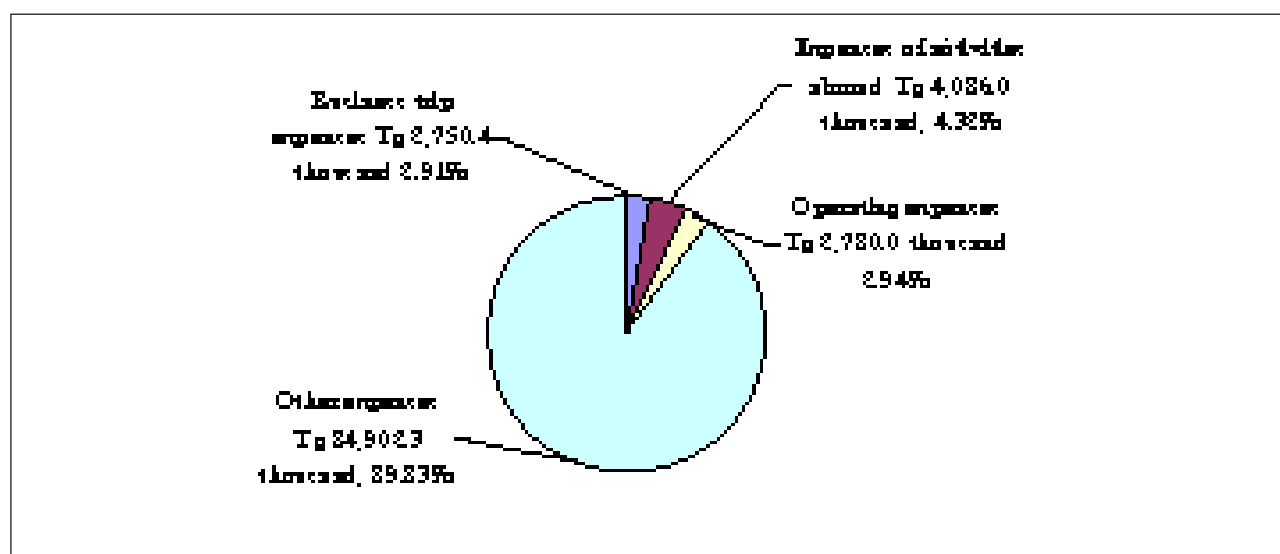
Article 22.2 of the Law on the NHRCM provides "The Parliament shall approve the Commission's budget based on the latter's proposed budget and incorporate it in the national budget separately, and the budget shall meet requirements for the independent conduct of its activities."

As the annual budget wasn't adopted as proposed by the Commission, funds weren't sufficient enough to exercise its powers and fulfill the objectives aimed to ensure, protect, and advocate human rights and ensure its effective cooperation with courts, prosecutor's office, police, court decision enforcement authority, and civil society.

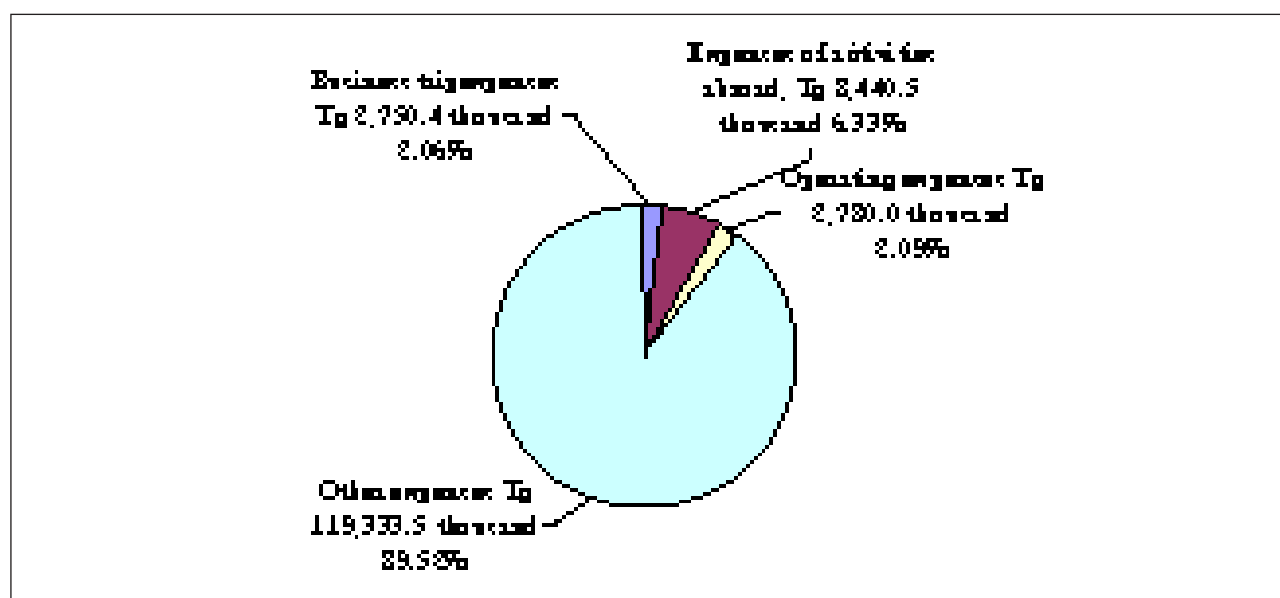
2005



2006



2007



1. The NHRC hasn't been able to participate in annual meeting of national human rights institutions that are held by the Office of the UN High Commissioner for Human Rights (OHCHR) and annual meetings of the Asia Pacific Forum of National Human Rights Institutions.

Calculation of Foreign Business Trip Expenses

No	Type of expenses	Calculation	Budget
1	Airfares	$US\$ 2,400 * 2\text{ persons} * \text{Twice} * \text{Tg } 1.170$	11,232,000
2	Accommodation and hotel	$US\$ 180 * 2\text{ persons} * 1\text{ week} * \text{Twice} * \text{Tg } 1.170$	3,896,800
3	Meals	$US\$ 304 * 2\text{ persons} * 1\text{ week} * \text{Twice} * \text{Tg } 1.170$	1,658,000
4	Total		18,786,800

2. It is necessary to incorporate a) US\$ 3,000 USD in the national budget for payment of a membership contribution for the Asia Pacific Forum of National Human Rights Institutions.
3. b) a publication cost of Tg 3,000,000 of a Report on Human Rights and Freedoms in the national budget.

