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2009 Human Rights Report: Mongolia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Mongolia, with a population of approximately three million, is a multiparty, parliamentary democracy. The most recent presidential election, held on May 24, was considered largely free and fair. Former prime minister Tsakhiagiin Elbegdorj of the opposition Democratic Party won the election, defeating incumbent Nambaryn Enkhbayar of the Mongolian People's Revolutionary Party (MPRP). The government, led by Prime Minister Sukhbaatariin Batbold, continued to be dominated by an MPRP majority but managed under a unity government with the Democratic Party. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were noted: police abuse of prisoners and detainees; impunity; poor conditions in detention centers; arbitrary arrest, lengthy detention, and corruption within the judicial system; continued refusal by some provincial governments to register Christian churches; secrecy laws and a lack of transparency in government affairs; domestic violence against women; and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

In contrast with 2008, there were no reports that the government or its agents committed arbitrary or unlawful killings.

In the case of the July 2008 protest resulting in the deaths of five persons, 10 police officers suspected of firing upon civilians were investigated by the Special Investigation Unit (SIU). Amnesty International reported that four senior police officials, including the national chief of police, the chief of the Metropolitan Police, and the heads of the Units for Patrol and Public Order, were also investigated for allegedly giving the order to open fire. The investigation was completed on February 15, and the case file was provided to the police officials under investigation. Although they were given one month to read the file, they did not do so until November. The Prosecutor's Office in turn would not consider bringing charges before it received the file. On December 2, a Working Group of the Human Rights Subcommittee of the State Great Hural (parliament) held the country's first public hearings, in which police officers, citizens, and human rights attorneys testified regarding the July 2008 events. At year's end the Working Group was drafting a report on the findings with

recommendations to address violations to be reviewed by the Sub-Committee on Human Rights and the Permanent Committee on Laws.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices; however, police, especially in rural areas, occasionally beat prisoners and detainees. The use of unnecessary force--particularly to obtain confessions--in the arrest process reportedly was common.

Nongovernmental organizations (NGOs) claimed that guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. The NGOs stated that some inmates were burned with cigarettes, beaten with batons, or kicked in the shins with steel-toed boots.

According to the National Human Rights Commission (NHRC), during the year the SIU of the State Prosecutor General's Office (SPO) received 30 complaints from citizens against police officers suspected of torture, of which 27 were dismissed and three led to convictions. The NHRC stated that some incidents of alleged torture occurred during investigations but not during imprisonment. The NHRC received five complaints against police and law enforcement officers concerning beatings, abuse, and confessions through torture. The five complaints were transferred to the SIU; none had resulted in arrests or charges by year's end. According to an NHRC survey of 569 inmates, 94 percent declared that they had not faced torture, discriminatory treatment, or abuse. Amnesty International reported that all complaints passed to the Prosecutor's Office from the NHRC were dismissed and that the Prosecutor's Office refused to provide explanations for their dismissal.

Prison and Detention Center Conditions

Conditions in prisons were poor but improved significantly during the year. The low quality of medical care available to prisoners remained a concern. The Prison Department reported that there were 5,200 prisoners, of whom 315 were women and 10 were juveniles.

Conditions at pretrial detention facilities remained poor. Sources reported incidents of detainee abuse and forced confessions. Additionally, overcrowding and low quality medical care threatened the health of detainees. There were approximately 600 detainees in the sole facility serving Ulaanbaatar in Gands-khudag, built originally for 500. At times cells held eight persons in spaces intended for two or three.

Many inmates entered prison infected with tuberculosis (TB) or contracted it in prison. The government quarantined and treated victims at its TB hospital.

The NHRC monitored conditions at several prisons and the Gands-khudag detention center. Monitors from the diplomatic and human rights community were granted unaccompanied meetings with prisoners during the year.

NGOs reported that prison conditions improved during the year, particularly with regard to general cleanliness and ventilation. With the construction of 12 new prison facilities since 2006 and the refurbishing of old ones, overcrowding in prisons subsided. Additionally, university-educated social workers and psychologists increasingly were employed full time for consultations with prisoners. Prisoners were offered a greater range of vocational, educational, outdoor, and religious activities. NGOs provided clothing, food, books, English-language instruction, and vocational training in prisons and detention centers.

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d. Arbitrary Arrest or Detention

The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention occurred. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention, was limited, especially in rural areas.

Role of the Police and Security Apparatus

Security forces are under the jurisdiction of the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). The MOD oversees national defense and assists in providing domestic emergency assistance and disaster relief, in support of internal security forces. The national police and the Border Force operate under the MOJHA. The GIA is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head reports directly to the prime minister. The SPO supervises undercover activities of the police and the intelligence agencies.

Corruption in law enforcement agencies was endemic. The government's Independent Agency Against Corruption (IAAC) investigated some police officers but did not make public the results of any such investigations. There were no major changes to prevent police from abusing detainees or punish those who did so. However, the government made efforts to improve the training and professionalism of the security forces.

Mechanisms to investigate police abuses remained inadequate as investigatory units lacked the resources to pursue all allegations. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials. The SIU investigates allegations of misconduct by law enforcement personnel, prosecutors, and members of the judiciary. During the year the SIU received 518 complaints against law enforcement officials, opened cases on 171 of these complaints, refused to open cases on 240 complaints, and transferred 107 complaints to other agencies. At year's end 32 cases were under investigation. The SIU investigated a total of 379 subjects--208 police officers, 126 civilians, 32 investigators, eight intelligence agency officers, two judges, and three prosecutors.

Arrest Procedures and Treatment While in Detention

A judge-issued warrant is required prior to the arrest of a suspect. A "pressing circumstances" exception allows police to arrest suspects without obtaining a warrant, but this was used with less frequency than in 2008. Arrest without a warrant was less common than in previous years.

By law police must request a court order to continue holding suspects after 24 hours. If permission is obtained, police may hold suspects for up to 72 hours before a decision is made to prosecute or release them. If a court order is not granted within 72 hours, police must release suspects.

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees are allowed prompt access to family members. Detainees may be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. Despite this legal provision, many detainees were unaware of their right to a government-appointed attorney and did not assert it. There was a shortage of public-funded and pro bono attorneys for low-income defendants, particularly outside of Ulaanbaatar. To address the shortage, the government, working with the UN Development Program, placed an attorney in each of the provincial capitals and the districts of Ulaanbaatar to provide free legal advice. Nonetheless, some detainees refused to use state-

funded attorneys for fear that such attorneys would not fairly represent them. Furthermore, many defense attorneys' law licenses were suspended for providing services to the victims of police violence from the July 2008 riots.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were problems. Bribery could contribute to the dismissal of a case or reduction of a recommended sentence. Blackmail and identity fraud were also sources of corruption.

During the year there was one misconduct case opened concerning judicial corruption. The judge in question was found guilty but spared punishment under the president's July blanket amnesty law. In the two cases involving judges pending at the end of 2008, one resulted in an acquittal and the other remained in trial.

The judiciary consists of district and provincial courts as well as the Supreme Court and the Constitutional Court. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as appeals courts for lower court decisions. The 17-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions.

The General Council of Courts nominates candidates for vacancies on the courts; the president has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary.

Trial Procedures

The law provides for the right to a fair public trial by a judge. The law provides that defendants are innocent until proven guilty. Juries are not used. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. Defendants may question witnesses, present evidence, and appeal decisions. The law extends these rights to all citizens.

Despite these provisions, trial procedures were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. Judges often relied on confessions, many of which were coerced by police, in convicting defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Administrative as well as judicial remedies are available for alleged wrongs. Corruption and outside influence were problems in the civil judicial system, and enforcement of court orders was also a problem. Although by law victims of police abuse can sue for damages, in practice few were able to claim compensation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Government interference with licensing and indirect intimidation of the press, particularly broadcast media, was evident.

A variety of newspapers and other publications represented both major political parties and independent viewpoints. The MOJHA licensed newspapers, television and radio broadcasters, and magazines. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, perceived self-censorship continued to be a problem. The government monitored all media for compliance with antiviolence, antipornography, antialcohol, and tax laws.

While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel complaints and tax audits. The law places the burden of proof on the defendant in libel and slander cases. Both libel and "insult" were criminal charges.

Observers stated that many newspapers were affiliated with political parties, or owned (fully or partly) by individuals affiliated with political parties, and that this affiliation strongly influenced the published reports. The observers also noted that underpaid reporters frequently demanded payment to cover or fabricate a story.

Broadcast media similarly were not free of political interference. A lack of transparency during the tendering process and lack of a fully independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the Information and Communication Technology Agency (ICTA), there were 45 Internet service providers in the country, and all provinces had Internet connectivity. Internet access continued to expand during the year to remote areas as a result of government and private-sector efforts. According to a survey done by ICTA in March, 73 percent of Ulaanbaatar residents had used the Internet at least once. According to the same agency, 6 percent of families in Ulaanbaatar had Internet connections in their homes.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

All NGOs, including religious groups, were required to register with the General Registration Agency (GRA). Local assemblies approve applications at the local level, after which the GRA issues the registration. Registration and reregistration procedures were burdensome for religious groups and could take years. The length and documentation

requirements of the process reportedly discouraged some organizations from applying. Some provincial authorities reportedly used the registration process to limit the number of places for religious worship; however, this practice was not universal.

According to NGOs the government's approval of places of worship was not a straightforward process. No religious organization was prevented from acquiring land on which to build a house of worship, but to circumvent bureaucratic problems, in many cases land was first acquired by an individual and then transferred to the organization following construction of the house of worship. Some places of worship avoided being authorized as such because of bureaucratic difficulties and instead characterized themselves as a fitness center or a cultural center. Twenty-seven places of worship registered for the first time during the year--15 Christian, seven Buddhist, and five shamanist.

In Tov Province, near Ulaanbaatar, authorities continued routinely to deny church registrations. One church that was denied registration sued provincial authorities in December 2008. The provincial court, Ulaanbaatar Court of Appeals, and Supreme Court all ruled in favor of the church in February, April, and June, respectively. However, local authorities took no steps to register the group.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or "deceptive methods" to introduce religion.

Societal Abuses and Discrimination

Societal attitudes were generally tolerant, and there was little overt or egregious discrimination based on religion.

The Jewish population remained very small, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees, and its laws do not provide the granting of asylum or refugee status. However, in practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. The law limits the president to two four-year terms. Parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in the parliament, in consultation with the president, shall appoint the prime minister. Members of the parliament may serve as cabinet ministers. There is no requirement that the prime minister or other ministers be a member of the parliament.

Elections and Political Participation

In the most recent presidential election, held on May 24, the former prime minister and candidate of the opposition Democratic Party, Tsakhiagiin Elbegdorj, won the election, defeating MPRP incumbent Nambaryn Enkhbayar. Independent observers described the election as largely free and fair.

The potential for bias within the General Election Commission was a concern, particularly for smaller political parties. Five of the nine commissioners belonged to the MPRP and three to the Democratic Party prior to becoming commissioners and cancelling their memberships, as required by law.

Political parties could operate without restriction or outside interference. There were 17 political parties registered with the Supreme Court.

There were no legal impediments to the participation of women or minorities in government and politics, but their numbers remained small. There were three women in the 76-member parliament. Two of the 15 cabinet ministers were women, as were seven of the 17 Supreme Court justices. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in the parliament. There were no members of minorities serving in the cabinet or Supreme Court.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption was perceived to be a serious and continuing problem at all levels of government, particularly within the police, judiciary, and customs service. Varying degrees of corruption at most levels of government resulted in a blurring of the lines between the public and private sectors. Conflicts of interest were frequent. The problem was compounded by ineffective governmental oversight bodies and media that frequently failed to expose corruption.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. Corruption-related arrests and convictions were rare but increasing. Despite this, the sentences of a number of officials convicted of accepting bribes were commuted under a blanket amnesty law passed in July.

The IAAC, which is responsible for investigating corruption cases, declared that nearly all of the most senior officials complied with the requirement to declare their assets and income (and those of relatives, including spouses, parents, children, and live-in siblings). The IAAC is also required to review the asset declarations of public servants, including police officers and members of the military, and this was carried out in practice. The IAAC received approximately 1,050 reports of improprieties during the year, of which it referred more than 660 for criminal investigation.

Government and parliamentary decision making was not transparent, and public legislative hearings were rare. Meetings of the standing committees of the parliament were not open to the press or the public. Nevertheless, in December the Human Rights Subcommittee of the State Great Hural held the first public subcommittee hearing since the country's democratization. General sessions of the parliament were largely open to the public, although not in all cases. The far-

reaching State Secrets Law inhibited freedom of information and government transparency while also undermining accountability. The law also hindered citizen participation in policy discussions and government oversight.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

With assistance from the UN Development Program, a local representative in each provincial assembly monitored human rights conditions.

The NHRC is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs; it reports directly to the parliament. The NHRC consists of three senior civil servants nominated by the president, Supreme Court, and parliament for terms of six years. In its reports the NHRC repeatedly criticized the government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights. However, at the December 2 hearing, NHRC Chairwoman Solongo broadly retracted the criticisms of law enforcement, claiming that their conclusions had been incorrect.

The government allowed midlevel civil servants to receive human rights training through seminars, conferences, and lectures.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The government generally enforced these provisions in practice.

Women

Rape and domestic abuse are illegal; however, no law specifically prohibits spousal rape, and rape remained a problem. During the year 223 persons were convicted of rape, according to the research center of the Supreme Court. However, NGOs alleged that many rapes were not reported and claimed that police and judicial procedures were stressful to victims and tended to discourage reporting of the crime. Social stigma also lowered the number of cases reported.

According to NGOs, police referred only a minority of rape cases for prosecution, largely claiming that there was insufficient evidence. Postrape medical examinations were available, and results were occasionally used as evidence; however, such exams were not always available in remote areas. NGOs stated that negative attitudes among some police resulted in some cases not being referred to prosecutors.

The criminal code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. If the victim is injured or is a minor, the penalty can reach five to 10 years. Such a crime resulting in death, victimizing a child under 14 years of age, or committed by a recidivist may result in 15 to 25 years' imprisonment or application of the death penalty. Gang rape is punishable by death.

Domestic violence remained a serious problem, particularly against women of low-income rural families. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions against offenders, including expulsion from the

home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, this level of service was rarely provided because the police lacked sufficient funding and, according to women's NGOs, often were reluctant to intervene in what was viewed as an internal family matter. At year's end only 20 cases had been tried under the 2004 law. On December 24, the government established a care facility for domestic violence and rape victims in the National Center for Trauma Treatment.

There were no reliable statistics regarding the extent of domestic abuse; however, the National Center Against Violence (NCAV) estimated in 2007 that one in three women was subject to some form of domestic violence, and one in 10 women was battered. Seven persons were convicted of domestic violence and given restraining orders during the year. The NCAV stated that it provided temporary shelter to 490 persons at its five locations and provided psychological counseling to hundreds. The NCAV launched domestic violence prevention campaigns without governmental support. State and local governments financially supported the NCAV in providing services to domestic violence victims. The Ministry of Social Welfare and Labor provided approximately 14 million tugrik (approximately \$9,500) to the NCAV for its five shelters, and the Government Stock Fund provided approximately an additional 13 million tugrik (\$9,000). Dundgovi and Tuv provinces provided two million tugrik (\$1,400) and 1.5 million tugrik (\$1,000) to their respective local shelters as well.

Prostitution is illegal, as is public solicitation for prostitution and organizing prostitution. Women's activists claimed that in Ulaanbaatar there were hundreds of brothels posing as saunas, massage parlors, and hotels. Some were occasionally raided by police. Nevertheless, the overall infrequency of raids allowed brothels to operate de facto. Some women worked abroad in the sex trade; an unknown number of them were trafficked. According to women's NGOs, sex tourism from South Korea and Japan remained a problem.

There are no laws against sexual harassment. NGOs alleged there was a lack of awareness within the society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem. An NHRC survey found that one of every two employed women under the age of 35 identified herself as a victim of workplace sexual harassment.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, a 2008 study by the women's rights group MONFEMNET found instances in reproductive care facilities of long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel. They also uncovered a lack of information on reproductive health services and options. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases these rights were enjoyed in practice. Women's activists stated that in at least two areas--information technology and mining--women were paid less than men for the same work.

Women represented approximately half of the workforce, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied midlevel positions in government and business or were involved in the creation and management of new trading and manufacturing businesses. The mandatory retirement age of 55 for women is five years lower than for men.

Divorced women secured alimony payments under the family law, which details the rights and responsibilities regarding alimony and parenting. The former husband and wife evenly divided property and assets acquired during their marriage. However, women's activists said that because businesses were usually registered under the husband's name, ownership was increasingly transferred automatically to the former husband.

There was no separate government agency to oversee women's rights; however, there was the National Gender Center under the Prime Minister's Office, a national council to coordinate policy and women's interests among ministries and NGOs, and a division for women and youth concerns within the Ministry of Social Welfare and Labor. In the parliament there was a Standing Committee on Social Policy, Education, and Science that focused on gender matters. There were approximately 100 women's rights NGOs concerned with problems such as maternal and child health, domestic violence, and equal opportunity.

Children

Citizenship is derived from one's parents.

Child abuse was a significant problem, principally in the forms of violence and sexual abuse. According to the governmental National Center for Children (NCC), both problems were most likely to occur within families.

Although against the law, the commercial sexual exploitation of children--involving those under 18 years of age--was a problem. According to NGOs there were instances of teenage girls kidnapped, coerced, and deceived across the country and forced to work as prostitutes. The minimum age for consensual sex is 16. Violators of the statutory rape law are subject to a penalty of up to three years in prison. The law prohibits the production, sale, or display of all pornography and carries a penalty of up to three months in prison. The country was not believed to be a destination for child sex tourism.

Police raids freed some victims of commercial sexual exploitation; however, NGOs claimed other police officers worked with procurers and brothel keepers.

Although society has a long tradition of raising children in a communal manner, societal and familial changes orphaned many children. Child abandonment was a problem; other children were orphaned or ran away from home as a result of parental abuse, much of it committed under the influence of alcohol.

According to the NCC, there were 48 temporary shelters and orphanages. There was one government-funded shelter, operated by the National Center Against Violence. The police oversaw an Address Identification Center in the capital where they temporarily provided accommodation to street children. With a capacity of 70, it was often overcrowded in the winter. Approximately 1,500 children lived in shelters countrywide, while 100 children were estimated to be living on the street.

Trafficking in Persons

Criminal code article 113, reformed in February 2008, specifically prohibits the "sale or purchase of humans" and provides for imprisonment of up to three years, or in egregious cases, up to 15 years. It covers the recruitment, transportation, and harboring of trafficking victims. The country remained a source of internal and transnational trafficking of men, women, and children for forced labor and sexual exploitation.

According to a local NGO study conducted during the year, women between 18 and 25 years of age were most vulnerable to trafficking, particularly those with low incomes or unemployed. Most were trafficked abroad, where they were victims of commercial sexual exploitation. Most trafficking victims were taken to China, which Mongolian citizens can visit without visas. However, cases with destinations such as Kazakhstan, South Korea, Japan, Macau, Hong Kong, Malaysia, Turkey, and Switzerland were alleged or confirmed. Local NGOs cited an increase in internal sex trafficking, including cases in which girls ages 13 to 17 were abducted, largely from the countryside, and forced into prostitution.

The Gender Equality Center operated a trafficking hotline without government funding that received 182 calls related to trafficking in persons during the year. The decrease from 236 calls in 2008 was attributed to a loss of outside funding for a number of months and the resultant interruption of services and advertising. The center and other NGOs also helped

Mongolians who had ended up in debt-bondage situations abroad. There also were reports of involuntary servitude by women who entered into marriages with foreigners, predominantly South Korean men.

The criminal code provides for three years' imprisonment, fines, or forced labor for a person convicted of the sale or purchase of humans. The sentence can reach 10 years if the crime is committed against a minor or against two or more persons, or if it is for the purpose of forced prostitution. If the same crime is committed by an organized criminal organization or inflicts "grave harm," it can be punishable with a prison term of 10 to 15 years.

Of the seven trafficking cases pending at the close of 2008, two resulted in guilty verdicts, leading to prison sentences ranging from seven to 11 years and the disbursement of approximately 4.3 million tugrik (\$3,000) in fines from perpetrators to victims of trafficking. At year's end police reported investigating 11 cases of trafficking in persons under article 113.

The government took limited steps to prevent trafficking, identify and prosecute offenders, and assist victims. The government continued to rely heavily on NGOs and the international community to provide most victim services and prevention activity.

During the year the International Organization for Migration and NGOs provided trafficking-related training to immigration officials, police investigators, prosecutors, railway police, GIA officials, and officials of the Ministries of Foreign Affairs and Social Welfare and Labor, among others. In addition foreign law enforcement experts trained local police on techniques for investigating trafficking and developing cases.

During the year 51 trafficking victims located abroad were repatriated. According to the Gender Equality Center, 27 of these were victims of labor exploitation in Turkey. The center assisted them with their reintegration.

Rather than file trafficking charges under the more severe article 113 of the criminal code, prosecutors proceeded under article 124, Organized Prostitution, which is easier to prove and carries lighter sentences. During the year 54 persons reported themselves to law enforcement authorities as victims of trafficking, and nine suspects were convicted under article 113, according to the Supreme Court research center.

Corruption was a problem, and there were reports of law enforcement officials directly involved in or facilitating trafficking crimes, including assisting traffickers in identifying potential victims. Some high-level government and police officials reportedly were clients of minors forced into prostitution, but the government did not investigate or take disciplinary action against law enforcement officers alleged to be involved in trafficking-related corruption.

NGO representatives reported that protections for victims and witnesses were extremely limited, and most assistance was provided by NGOs rather than the government. Social stigma inhibited victims from speaking out. The Gender Equality Center operated two shelters for the protection of trafficking victims without government support.

With the assistance of NGOs, customs officials distributed information to outward-bound citizens. However, the leaflets were not given uniformly. Rather, officials reportedly put them in the passports of only those women they judged to be likely prostitutes. NGOs expressed dismay at this incomplete and arbitrary means of distribution.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The labor law prohibits discrimination in employment and education against persons with disabilities. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, the government did little to execute such measures,

and in practice most persons with disabilities faced significant barriers to employment, education, and participation in public life.

According to the Mongolian National Federation of Disabled Persons' Organizations (MNFDPPO), there were an estimated 97,000 persons with disabilities over the age of 15 in the country, of whom 20 percent were employed. The government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. The law requires workplaces to hire one person with disabilities for every 25 employees. Persons injured in industrial accidents had the right to reemployment when ready to resume work, and the government offered free retraining at a central technical school. The reemployment right was generally enforced in practice.

There is no general law mandating access to buildings for persons with disabilities, and no government buildings were accessible to such persons. Public transportation was also largely inaccessible to persons with impaired mobility.

There were several specialized schools for youth with disabilities, but these students could also attend regular schools. However, in practice children with disabilities had limited access to education. The MNFDPO estimated that of the country's 42,000 children with disabilities, nearly two-thirds failed to complete secondary education. Schools for individuals with disabilities could accommodate only 2,200 children.

The law requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided such benefits, the amount of financial assistance was low, and it did not reach all persons with disabilities. According to the MNFDPO, of the country's 97,000 persons with disabilities, approximately 42,000 received an allowance from the government's Social Welfare Fund, and 46,000 persons received allowances from the Social Insurance Fund.

Persons with disabilities could not fully participate in the political process. Little accommodation was made for persons with disabilities at polling stations, and there were no such representatives in the parliament. According to an MNFDPO survey, 80 percent of all eligible voters with disabilities voted by guessing, since they were not able to obtain adequate information about candidates or their parties' platforms. Persons with sight and hearing disabilities also had difficulty remaining informed about public affairs due to a lack of accessible broadcast media.

The MNFDPO worked with the government to encourage vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses. There was one such business incubator under the MNFDPO, located in Ulaanbaatar.

National/Racial/Ethnic Minorities

The constitution states that "all persons lawfully residing within Mongolia are equal before the law and the courts." However, some foreign businesspersons resident in the country complained that government tax and licensing authorities subjected them to much greater scrutiny than domestic competitors. Other foreign entrepreneurs complained privately that they were disproportionately targeted for shakedowns by corrupt government officials, including police. Furthermore, they were targeted with frivolous criminal law suits in the event of business disputes, forcing them to leave the country or undergo an onerous process of clearing their names.

A small number of nationalist and xenophobic groups threatened Chinese residents' personal safety and businesses, as well as the safety of any Mongolian women who associated with Chinese men. During the year there were several credible reports of violence against Chinese residents, estimated to number more than 12,000. The government took steps to protect the rights of Chinese residents.

Chinese construction workers, when away from their work sites, were sometimes subjected to hostility and suspicion from host-country citizens.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Homosexual conduct is not specifically proscribed by law. However, Amnesty International and the International Lesbian and Gay Association criticized a section of the penal code that refers to "immoral gratification of sexual desires," arguing that it could be used against persons engaging in homosexual conduct. Such persons reported harassment and surveillance by police.

The government impeded the free association of lesbian, gay, bisexual and transgender (LGBT) groups. The State Registration Agency refused in multiple instances to register the LGBT Centre, alternatively asking for bribes and declaring its name to be "immoral," but registered the group in December.

There were reports that individuals were assaulted in public and at home, denied service from stores and nightclubs, and discriminated against in the workplace based on their sexual orientation. There also were reports of abuse of persons held in police detention centers based on their sexual orientation.

Some media outlets described gay men and lesbians with derogatory terms and associated homosexual conduct with HIV/AIDS, pedophilia, and the corruption of youth.

Other Societal Violence or Discrimination

There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed. The public continued largely to associate HIV/AIDS with homosexual conduct, burdening victims with the attendant social stigma.

Section 7 Worker Rights

a. The Right of Association

The law entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements, and the government respected this right in practice. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated union membership of salaried individuals remained constant at 209,000. Approximately 400,000 workers were self-employed; of these, 241,000 belonged to a union. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

The law provides for the right to strike. The Confederation of Mongolian Trade Unions reported two strikes during the year, including by miners at the Boroo Gold Mine and technicians at the Aero Mongolia airline.

If an employer fails to comply with a recommendation by a majority of workers, with union involvement or without, employees may exercise their right to strike. The government prohibits third parties from organizing a strike.

Persons employed in essential services, which the government defines as occupations critical for national defense and safety and including police, utility, and transportation, do not have the right to strike.

b. The Right to Organize and Bargain Collectively

Laws protect collective bargaining, and these were effectively enforced. The law regulates relations among employers, employees, trade unions, and the government. The government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. Approximately 52 percent of workers were covered by collective agreements. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation.

The law protects the right of workers to participate in trade union activities without discrimination, and the government protected this right in general. Nevertheless, in the strike against Aero Mongolia, the administration and courts did not recognize the rights of mechanics to establish a company-level trade union, allowing the company to fire those workers seeking to unionize. The case remained in appeal at year's end. The government does not allow intervention in collective bargaining by third parties.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law specifically prohibits forced or compulsory labor, including by children; however, there were isolated reports that such practices occurred.

The NHRC stated that military officials reportedly subjected subordinates to forced labor, such as cutting firewood, digging ditches, or working at construction sites owned by the superiors' friends or relatives.

An estimated 250 North Korean laborers were employed in the fields of mining, factory work, utilities, transportation, construction, customer service, and health. There was concern that some North Korean workers were not free to leave their employment or complain about unacceptable work conditions.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Labor inspectors assigned to regional and local offices were responsible for enforcement of these prohibitions as well as all other labor regulations. Inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, in unauthorized small-scale mining, and herding animals. Widespread alcoholism and parental abandonment made it necessary for many children to have an income to support themselves. The NCC placed the number of children in the labor force as high as 77,000, although up to 90 percent of these children were involved in traditional animal husbandry, while only 1 percent were estimated to be involved in mining.

International organizations continued to voice concern over child jockeys in horseracing. According to NHRC reports, more than 30,000 child jockeys competed in horse races each year. Children commonly learn to ride horses at age four or five, and young children traditionally serve as jockeys during the national Naadam festival, where horse races range from two to nearly 20 miles. The state bans child jockey racing during the coldest period (October 18 through February 13) and enacted regulations regarding headwear. Nonetheless, in practice very few child jockeys used helmets.

e. Acceptable Conditions of Work

The legal minimum wage was 108,000 tugrik per month (approximately \$75). This minimum wage, which applied to both public and private sector workers and was enforced by the Labor Ministry, did not provide a decent standard of living for a worker and family. Some workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage is reset annually by the Ministry of Social Welfare and Labor in consultation with trade union representatives and employers.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. For persons 14 and 15 years of age, the workweek is 30 hours; for those 16 and 17 years of age, it is 36 hours. By law overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited from working overtime by law. These laws generally were enforced in practice.

There is no law mandating sick leave for workers. According to the government, employers set their own rules in this regard.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards; however, enforcement of the standards was inadequate. The Ministry of Social Welfare and Labor had an insufficient number of labor standards inspectors according to the Mongolian Confederation of Trade Unions (MCTU). Inspections were conducted both proactively and in response to complaints filed. An MCTU representative stated that fines leveled against companies not complying with labor standards were insufficient in many cases to induce management to resolve problems cited by inspectors. The near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the construction, mining, and power sectors. According to the MCTU, there were 53 deaths and 366 injuries during the year, significantly lower than the 162 deaths and 491 injuries reported for 2008. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities enforced this right.

Foreign workers, a majority of whom were Chinese mining and construction workers, generally enjoyed the same protections as citizens, despite often working in low-wage jobs and living under Spartan conditions. However, the Ministry of Social Welfare and Labor did not monitor the working or living conditions of North Korean laborers, who were employed primarily in the construction and service industries.