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## U.S. Department of State

### Mongolia Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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#### MONGOLIA

Mongolia made further progress in its transition from a highly centralized Communist-led state to a full-fledged, multiparty, parliamentary democracy, although these gains still must be solidified, and the process continues to evolve. The Prime Minister is nominated by the President and approved by the State Great Hural, the national legislature. Mongolia's progress in the development of democratic institutions was demonstrated by the unexpected June 1996 election defeat of the Mongolian People's Revolutionary Party (MPRP), which had been in power since 1921. The MPRP accepted its defeat and has entered into its new role in opposition. There are 12 political parties, 4 of which hold seats in the Hural.

Security forces are under civilian control; the Minister of Defense is the first civilian to hold this post. The national police have primary responsibility for internal security. The military forces are responsible for external security, including border security. Reduced government spending continued to force downsizing of the military forces. The State Security Agency (SSA), formerly the Mongolian Central Intelligence Agency (MCIA) is responsible for internal security; its head has ministerial status and reports directly to the Prime Minister; a Hural committee oversees the military forces, the police, and the SSA. Some members of the security forces committed occasional human rights abuses.

Despite reforms in the 1990's, most large economic entities remain under state control; the Government plans to privatize 60 percent of these entities by 2000. The economy continued to expand and strengthen, despite a 1997 inflation rate of 23 percent. Mongolia remains a very poor country, with per capita income at approximately \$340 dollars per year. It relies heavily on foreign economic assistance.

The mainstays of the economy continue to be copper production and other mining, livestock raising, which is done by a majority of the rural population, and related food-, wool-, and hide-processing industries, which meet both local needs and produce goods for export. A growing trade and small entrepreneurial sector in the cities provides basic consumer goods. Minerals, especially copper, comprise the bulk of export earnings. An unreliable energy system, a lack of transportation and other infrastructure, and a small domestic market discourage foreign investment.

The Government generally respected the human rights of its citizens. Problems remain, however, including occasional beatings of detainees and prisoners by members of the security forces, poor prison conditions, restrictions on due process for detainees, occasional government manipulation of the media, and violence against women.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

Several dozen prisoners died in custody during the year, at least partially due to inadequate management and oversight by the authorities (see Section 1.c.).

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the Constitution forbids such practices, there were credible reports that police and prison officials sometimes beat or otherwise physically abused prisoners and detainees. Prison facilities are poor--including insufficient food and heat--and threaten the health of detainees. With the continuing rise in crime and subsequent increase in the prison and pretrial detainee population, severe crowding in both prisons and detention facilities is common, aggravating management and resource problems.

The deaths of several dozen prisoners from undetermined health-related causes, however, appears at least partially attributable to negligence and inadequate oversight. However, there is no evidence of a pattern of deliberate abuse or of a policy of withholding food or other necessities as punishment.

The Government permits prison visits by human rights monitors.

#### **d. Arbitrary Arrest, Detention, or Exile**

The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, but these protections have not been fully codified. Under the Criminal Procedures Code, police may arrest those caught committing a crime and hold them for up to 72 hours before the decision is taken to prosecute or release. A warrant must be issued by a prosecutor for incarceration of longer duration or when the actual crime was not witnessed. A detainee has the right to a defense attorney during this period and during any subsequent stage of the legal process. If a defendant cannot afford a private attorney, a state-appointed attorney will be appointed.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. The courts are independent, and there is no evidence that they discriminate against any group, or that decisions are made for political reasons.

The court system consists of local courts, provincial courts, and the Supreme Court. The 9-member Supreme Court is at the apex of the judicial system, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts hear mostly routine criminal and civil cases; provincial courts hear more serious cases such as rape, murder, and grand larceny and also serve as the appeals court for lower court decisions. A Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an independent administrative body, nominates candidates for vacancies on both the supreme and lower courts; the President has the power to ratify or refuse to approve such nominations. The Council also is charged with ensuring the rights of judges and guaranteeing the independence of the judiciary.

All accused persons are guaranteed due process, legal defense, and a public trial, although closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases provided by law. Defendants may question witnesses and appeal decisions.

There were no reports of political prisoners.

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

The Constitution provides that the State shall not interfere with the private beliefs and actions of citizens, and the Government generally respects this in practice. The head of the SSA may, with the knowledge and consent of the Prime Minister, direct the monitoring and recording of telephone conversations. The extent of such monitoring is unknown. The MPRP accused the then-Mongolian Central Intelligence Agency of spying on some of its members in November 1996. An investigation by the Hural found the accusations to be true, and the head of the MCIAC was fired. The MCIAC was reorganized and renamed.

**Section 2 Respect for Civil Liberties, Including:**

a. Freedom of Speech and Press

The Constitution provides for the rights of freedom of speech, press, and expression. The Government generally respects these rights in practice. An increasing variety of newspapers and other publications represent major political party viewpoints as well as independent views. However, both state-controlled and independent media have been occasionally manipulated by the State to put forward government policy. State-controlled media remain the largest organizations by far. Independent media sometimes complain of unequal access to government information and officials. One example of official manipulation was a dispute between a private Western-Mongolian joint venture and the government body responsible for oversight of such joint ventures. Editors of independent media reported being threatened with charges of violating state secrets for having reported on government electronic surveillance prior to the October 1996 local elections. One independent newspaper reported that its office telephones were monitored by government security forces.

Although in the past the Government controlled access to newsprint, all newspapers now buy newsprint

directly from private suppliers, and neither party-affiliated nor independent news media report difficulty securing an adequate supply. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications is restricted in outlying regions.

Libel laws are very generous to plaintiffs as well as a hurdle for small media. One judgment against them can lead to bankruptcy, while the larger, state-owned media can more readily sustain such adverse financial judgments.

There is a government-financed television station with countrywide reception capability, a limited-operation international joint venture private television channel, a new private television station, and several radio stations in Ulaanbaatar. State-owned radio is particularly important as the major source of news in the countryside. Both official and private media present opposition and government news. Residents of Ulaanbaatar also have access to television. Citizens receive broadcasts from China, Russia, Japan, the United Kingdom, France, Germany, the United States, and other countries via commercial satellite and cable television systems. An estimated 20 percent of households have television.

The Government respects academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

#### c. Freedom of Religion

The Constitution provides for the right both to worship and not to worship and explicitly recognizes the separation of church and state. The Government generally respects these provisions in practice. Although Mongolia has no official state religion, the Government has contributed to the restoration of several Buddhist sites. There are important religious, historical, and cultural centers. It does not subsidize the Buddhist religion in other ways.

Although under the provisions of a 1993 law on relations between church and state, the Government may supervise and limit the numbers of both places of worship and clergy for organized religions; there are no reports that it has done so. Religious groups, however, must register with the Ministry of Justice. Proselytizing is allowed, although a Ministry of Education directive bans the mixing of foreign language or other training with religious teaching or instruction. Contacts with coreligionists outside the country are allowed.

The Government closed some Buddhist, Christian, and Bahai places of worship for failing to register properly, and it prevented one foreign religious organization from importing Mongolian Language Christian videotapes and books for children. It reportedly did so because the organization tried to claim status as a nongovernmental organization, rather than as a religious organization.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement within the country as well as the right to travel and return without restriction, and the Government generally respects these rights in practice. By regulation, some categories of foreigners who wish to travel for more than 1 week must notify police authorities of their projected destination.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian

organizations in assisting refugees in the small number of cases reported in which such status has been claimed. There were no reports of forced expulsion of those having a valid claim to refugee status.

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

The Constitution provides citizens with the right to change their government through periodic, free elections via secret ballot, with universal suffrage. Presidential, parliamentary, and local elections are held separately. In the May presidential elections, MPRP candidate Natsagiin Bagabandi defeated the incumbent President Punsalmaagiin Ochirbat and a third candidate in elections that were free and fair, marking the third consecutive election--including 1996 parliamentary and local elections--in which the governing party was defeated.

There are 12 registered political parties; 4 are represented in the Hural.

There are no legal impediments to the participation of women or minorities in government and politics. Women are not represented in the highest levels of the Government and in the highest echelons of the judiciary. Only 7 of 76 Hural members are women. Although there are significant numbers of women in various midlevel ministry positions, there are no women in the Cabinet or the Supreme or Constitutional Courts. The low number of women at the highest levels of government has several causes, including tradition and some degree of discrimination by the virtually all-male leadership structure.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

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

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution 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 enforces these provisions in practice.

#### **Women**

There is increasing public and media discussion of domestic violence, including spousal and child after many years of government and societal denial. Although there are no reliable or exact statistics regarding the extent of such abuse, human rights groups, women's groups, resident diplomats, and other observers believe that it is a common phenomenon. The large economic and societal changes underway have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. These factors, coupled with the serious problems caused by extremely high rates of alcohol abuse, have led to increased instances of family abuse and abandonment and have added to the number of single-parent families, most of which are headed by women. Although women's groups advocate new statutes to cope with domestic violence, there is no known police or government intervention in cases involving violence against women beyond prosecution under existing assault laws after formal charges have been filed. Rape is illegal, and offenders can be prosecuted and convicted, but there is no law specifically prohibiting spousal rape.

The Constitution provides men and women with equal rights in all areas and, both by law and practice, women receive equal pay for equal work and have equal access to education. Women represent about half the workforce, and a significant number are the primary earners for their families. Although many women occupy midlevel positions in government and the professions, and many are involved in the creation and management of new trading and manufacturing businesses, women are almost completely absent from the highest leadership levels of both the public and private sectors. There is no government agency that oversees women's rights, nor are there any notable efforts by the Government to encourage greater representation by women in government policymaking.

A small number of women's rights groups concern themselves with such issues as maternal and children's health and domestic violence. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health. The Government enforces these provisions.

### Children

Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with all of the educational, health, and social needs of the most rapidly growing segment of its population. The Government provides children of both sexes with free public education through the age of 16, although family economic needs and state budgetary difficulties make it difficult for some children to attend school. Education is compulsory to the age of 16. In addition, there continues to be a severe shortage of teaching materials at all educational levels.

There are growing numbers of infants and small children orphaned by maternal deaths and desertion and in Ulaanbaatar and major urban centers there are growing populations of street children. There are an estimated 3,000 street children. The Government is committed in principle to children's rights and welfare, but it provides only minimal support for the few shelters and orphanages that do exist, and those facilities must turn to private sources to sustain their activities.

Mongolia has a long tradition of support for, and often communal raising of children, and this tradition enjoys public support. The Government has been reluctant to admit the extent of the problem of orphaned children and slow to take steps to improve the welfare of children who have become the victims of larger societal and familial changes.

### People With Disabilities

There is no discrimination against disabled persons in employment and education, and the Government provides benefits to the disabled according to the nature and severity of disability. Those who have been injured in industrial accidents have the right to be reemployed when ready to resume work. The Government also provides tax benefits to enterprises which hire the disabled, and some firms hire the disabled exclusively. There is no legislation mandating access for the disabled.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution entitles all workers to form or join union and professional organizations of their own choosing. Union officials estimate that union membership totals over 400,000 persons, somewhat less than half the workforce. Union membership is decreasing as the economy shifts from large state

enterprises and as increasing numbers of workers either become self-employed or work at small, nonunionized firms. No arbitrary restrictions exist on who may be a union official, and officers are elected by secret ballot.

Union members have the right to strike. Those employed in essential services, which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

Most union members are affiliated with the Mongolian Trade Unions Confederation, but some are affiliated with the newer Association of Free Trades Unions. Both organizations have ties with international labor organizations and confederations in other countries.

#### b. The Right to Organize and Bargain Collectively

In theory, wage levels and other employment issues are decided in tripartite contract negotiations between employer, union, and government representatives. The Government's role is limited to ensuring that the contract meets legal requirements as to hours and conditions of work. In practice, wages and other conditions of employment are set mainly by the employer, whether that employer is a private firm or the Government.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law specifically prohibits forced or compulsory labor, including forced labor by children. The Government enforces this law. However, most members of the military forces are required to help with the Fall harvest.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded labor by children, and enforces this prohibition effectively (see Section 6.c.). The law prohibits children under the age of 16 from working, although those 14 and 15 years of age may do so with parental consent. Those under 18 years of age may not work at night, engage in arduous work, or work in dangerous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, is the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement is limited due to the small number of labor inspectors and the growing number of independent enterprises.

#### e. Acceptable Conditions of Work

The monthly legal minimum wage is approximately \$12 (9600 tugriks) per month. This level applies to both public and private sector workers and is enforced by the Ministry of Health and Welfare. This is the lowest wage for manual labor, such as janitorial work; virtually all civil servants earn more than this amount, and many in private businesses earn considerably more. The minimum wage alone is insufficient to provide a decent standard of living for a worker and family.

The law sets the standard legal workweek at 46 hours and establishes a minimum rest period of 42 hours between workweeks. For those under 18 years of age, the workweek is 36 hours, and overtime work is not allowed. 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 by law from working overtime.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards, and the Ministry of Health and Welfare provides enforcement. According to labor law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. Mongolia's near-total reliance on outmoded machinery and problems with maintenance and management lead to frequent industrial accidents, particularly in the mining, power, and construction sectors. Effective enforcement of existing occupational health and safety standards is difficult because the Government has less than 40 full-time inspectors to cover all firms, including a growing number of small enterprises. Some of the major industrial sectors, however, have part-time inspectors.

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