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U.S. Department of State

Mongolia Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

MONGOLIA

Mongolia made further progress in its transition from a highly centralized, Communist-led state to a fledged, multiparty, parliamentary democracy, although the process continues to evolve and these gains still must be solidified. The Prime Minister is nominated by the majority party and, with the agreement of the President, is approved by the State Great Hural (Parliament), 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 role in opposition. There are 17 political parties, 4 of which hold seats in the Parliament.

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 law enforcement. 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 is responsible for internal security; its head has ministerial status and reports directly to the Prime Minister; a parliamentary committee oversees the military forces, the police, and the SSA.

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, and inflation dropped below 10 percent. Mongolia remains a very poor country, with per capita income at approximately \$380 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 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 inadequate energy system, lack of transportation and other infrastructure, legal and regulatory deficiencies, petty corruption, and a small domestic market discourage foreign investment.

The Government generally respected the human rights of its citizens. However, problems remain including poor prison conditions, restrictions on due process for prisoners, occasional government manipulation of the media, official harassment of some religious groups that sought to register, 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

It is suspected that the unsolved murder of the Minister of Infrastructure in October was politically motivated.

There were no other reports of political or extrajudicial killings; however, approximately 200 prisoners died in custody during the year, largely due to disease and inadequate management 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, and reports of such actions diminished, occasional beatings of prisoners and detainees by members of the security forces occur in the countryside. Reforms undertaken by the Ministry of Justice upon Parliament's recommendation, following reports by international human rights observers, have changed significantly the way that accused persons and prisoners are treated. The Ministry's Department for the Enforcement of Court Decisions now monitors conditions; however, the new laws and procedures have not been widely publicized, especially in the countryside, and citizens are not aware always of their rights with respect to detention and arrest.

Prison facilities are poor--including insufficient food and heat--and threaten the health of inmates. Many inmates entered prison already infected with tuberculosis, or contracted it in prison, and almost 80 percent of those who died in prison died of this disease. Approximately 200 prisoners died in custody, largely due to disease and inadequate management by the authorities. Some 160 of these prisoners died from tuberculosis. Although the number of inmates has remained fairly constant, the seriousness of crimes has increased. Severe crowding in both prisons and detention facilities is common, aggravating management and funding problems. Reforms implemented in January increased prison staff, built smaller units, and provided better clothing and food, as well as health and hygiene instructions; the police stopped the practice of shaving prisoners' heads.

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, the State will appoint an attorney.

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 17-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 providing for the independence of the judiciary.

All accused persons are provided 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. Citizens made 25 complaints about the legal system to the local office of the United Nations High Commissioner for Human Rights (UNHCHR). Most complaints were about corruption that allegedly resulted in unfair court decisions. The UNHCHR staff referred the complaints to nongovernmental organizations (NGO's) and the Ministry of Justice.

There were no reports of political prisoners. The State Rehabilitation Commission pays a one-time allowance to the families of approximately 29,000 individuals who were persecuted from 1922 through the 1960's.

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.

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 represents major political party viewpoints as well as independent views. However, both state-controlled and independent media have been manipulated occasionally by the State in order to promote government policy. State-controlled media remain the largest organizations. Independent media sometimes complain of unequal access to government information and officials.

In August the Parliament adopted a new media law that bans censorship of public information and legislation and also bans future legislation that would limit the freedom to publish and broadcast. It also bars state ownership of the media or financing of media organizations. The law was scheduled to go into effect on January 1, 1999.

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 and a pitfall for small media. One negative judgment can lead to bankruptcy. The larger, state-owned media can sustain such adverse financial judgments more readily.

There is a government-financed television station with countrywide broadcasting capability, a limited-operation international joint venture private television channel, a private television station, and several radio stations in Ulaanbaatar. State-owned radio is particularly important as the major source of news in the countryside, but the one independent radio station broadcasts widely. Both official and private media present opposition and government news. Residents of Ulaanbaatar receive broadcasts from China, Russia, Japan, the United Kingdom, France, Germany, the United States, and other countries by commercial satellite and cable television systems. An estimated 50 to 60 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; however, some groups that sought to register faced official harassment. Although Mongolia has no official state religion, the Government has contributed to the restoration of several Buddhist sites. These are important religious, historical, and cultural centers. It does not subsidize the Buddhist religion otherwise.

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, but there are no reports that it has done so. Religious groups, however, must register with the Ministry of Justice. Proselytizing by registered religious groups 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 Christian and Baha'i places of worship for failing to register properly. Some groups encountered harassment during the registration process, including demands by midlevel city officials that contributions of a set value be made in return for securing legal status. Even when registration was completed, some religious groups were threatened with withdrawal of approval.

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.

The Government cooperates with the office of 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 by secret ballot and universal suffrage. Presidential, parliamentary, and local elections are held separately. In April the Prime Minister and his Government were forced to resign by a vote of the parliamentary majority, and in a peaceful transition, within the framework of the Constitution, a new Prime Minister and cabinet were selected. The Government resigned again in July because of a stalemate with the opposition in Parliament, which obstructed legislative business. A caretaker government remained in charge until December when a new Prime Minister was selected. These political changes brought to the surface constitutional questions concerning the powers of the president as Head of State and the president's relationship to Parliament and the government, particularly the power to approve the candidate for head of government as proposed by the majority party. These questions remain unresolved.

There are 17 registered political parties; 4 are represented in the Parliament.

There are no legal impediments to the participation of women or minorities in government and politics. A recent by-election brought the total of female members of Parliament to 8 of 76, and Parliament approved the appointment of the first female Foreign Minister in December. Women and women's organizations are increasingly vocal in local and national politics, and actively seek greater representation by women in government policymaking.

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 generally are 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

Violence against women is a serious problem. 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. There is increasing public and media discussion of domestic violence, including spousal and child abuse, after many years of government and societal denial. 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. NGO's conducted training for police on how to deal with domestic violence cases. 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. 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, but until recently, women were 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. However, women and women's organizations are increasingly vocal in local and national politics and actively seek greater representation in government policymaking.

There are approximately 36 women's rights groups that concern themselves with such issues as maternal and children's health, domestic violence, and equal opportunity. 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 an adverse effect on many children, and the Government has been unable to keep pace with the educational, health, and social needs of the most rapidly growing segment of its population. The Government provides children of both sexes with free, compulsory public education through the age of 16, although family economic needs and state budgetary difficulties make it difficult for some children to attend school. In addition there continues to be a severe shortage of teachers and teaching materials at all educational levels.

NGO's made significant efforts to assist orphaned and deserted children, and were largely responsible for a nationwide decrease of one-third in the number of street children, to an estimated 2,000. 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 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 is now more willing to admit the extent of the problem of orphaned children, but lacks the resources 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 that hire the disabled, and some firms hire the disabled exclusively. There is no legislation mandating access for the disabled. Some disabled citizens groups are lobbying for higher government subsidies.

Section 6 Worker Rights

a. The Right of Association

The Constitution entitles all workers to form or join union and professional organizations of their choosing. Union officials estimate that union membership totals over 450,000 persons, about 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; 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. In many cases, prisoners work to support the detention facility in which they are held.

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 legal minimum wage is approximately \$14 (12,000 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.

An amendment to the Labor Code that took effect on January 1 set the standard legal workweek at 40 hours and established a minimum rest period of 48 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, but the Government increased the number of fulltime inspectors to 86 to cover a growing number of small enterprises.

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