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1999 Country Reports on Human Rights Practices

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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 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. National 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 20 political parties, 4 of which hold seats in the Parliament. The judiciary is independent.

Security forces are under civilian control, and the Minister of Defense is a civilian. 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. Some members of the police on occasion committed human rights abuses.

Despite reforms in the 1990's, most large economic entities remain under state control; the Government had planned to privatize 60 percent of these entities by 2000. The economy continued to expand and strengthen, and inflation stayed below 10 percent. Mongolia remains a poor country with per capita income approximately \$453 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. Garment manufacture and minerals,

especially copper, constitute the bulk of export earnings. 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 in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention and prison conditions are poor, and arbitrary arrest and detention are problems. There are restrictions on due process for persons arrested or suspected of crimes. Official harassment of some religious groups that sought to register persists. Violence against women is a serious problem; however, efforts to assist victims increased during the year. Child abuse also is a problem. There were some instances of forced labor.

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 killings; however, it is suspected that the murder of the Minister of Infrastructure in October 1998 was politically motivated. Although the investigation is ongoing, the inability to solve this case has been a major problem for the democratic coalition Government.

Approximately 200 prisoners died in custody during the year, largely due to disease and inadequate prison management (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, members of the police occasionally beat prisoners and detainees in the countryside, and unnecessary force in the arrest process is not uncommon. 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 publicized widely, especially in the countryside, and citizens are not aware always of their rights with respect to detention and arrest.

Pretrial detention and prison facilities are poor--including insufficient food and heat--and threaten the health of inmates. Different authorities administer the pretrial detention system and the prison system, which creates tensions between the two and limits management improvements. Many inmates entered prison already infected with tuberculosis or contracted it in prison. With the help of foreign donors, the prisons continued a 1997 program for surveying and treating tuberculosis among inmates, bringing the number of cases down by 1,500 in 2 years; the percentage of inmates who die of the disease also has decreased. Approximately 200 prisoners died in custody, largely

due to disease and inadequate management by the authorities. Pretrial detention facilities, where suspects can be held for up to 36 months, are often worse than the prisons and contribute significantly to the tuberculosis problem. 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, health, and funding problems. To address these problems under the continuing reform process, prison inmates in the capital were divided into smaller groups managed by trained personnel and provided better clothing and food, as well as health and hygiene instructions. The much-publicized case of the detention of three Members of Parliament (M.P.'s) from April to July highlighted the harsh conditions of the detention facilities and served as a catalyst for releasing over 100 detainees held without adequate cause. Improvements in detention and prison conditions outside of the capital are significantly less or nonexistent due to lack of funding.

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 codified fully, and arbitrary arrest and detention are problems. Under the Criminal Procedures Code, police may arrest those caught committing or suspected of a crime and hold them for up to 72 hours before the decision is taken to prosecute or release. A prosecutor must issue a warrant 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 appoints an attorney. Detainees may be released on bail with the agreement of the prosecutor.

However, citizens are not always aware of their rights in regard to arrest and detention (see Section 1.c.). When a new prosecutor general was appointed in June, with the pressure created by publicity surrounding the detention of three M.P.'s, the Government authorized the release of over 100 persons determined to have been detained unjustifiably for minor crimes (see Section 1.c.). The police may detain a suspect up to 10 months, and the prosecutor can authorize up to an additional 26 months of pretrial detention.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the courts are independent in practice.

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. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the Ministry of Justice, nominates candidates for vacancies on

both the Supreme and lower courts; the President has the power to approve or refuse 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 do not enjoy a presumption of innocence. Defendants may question witnesses and appeal decisions. There were few complaints about the legal system to the local office of the U.N. High Commissioner for Human Rights (UNHCHR), because most citizens do not know about the organization. Complaints were usually 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. In a program that began in 1998, the State Rehabilitation Commission pays a one-time allowance to the families of those individuals who were persecuted from 1922 through the 1960's. By year's end, approximately 5,000 families received payments of \$1,000 (1 million tugrik) each.

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 freedom of speech, press, and expression, and 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. On January 1, a new media law went into effect that bans censorship of public information and also bans future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation was difficult and controversial. Lack of access to information and of transparency in government continue to inhibit political dialog in the media, and led to media complaints. Nonetheless, the independent media reports freely, and, unlike previous years, there were no attempts to manipulate the media by the Government.

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.

The court system places the burden of proof on the defendants in libel and slander cases.

This creates a stifling effect upon the free media.

There is a government-financed television station with countrywide broadcasting capability, a limited-operation international joint venture private television channel, a private television station, a local television station controlled by the Ulaanbaatar mayor's office, 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. The media presents opposition and government news. Many residents of the country have access to television, and Ulaanbaatar residents 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 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 the Government generally respects these provisions in practice; however some groups that sought to register faced official harassment. Although the Constitution explicitly recognizes the separation of church and State and the country 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 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. However, religious groups 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.

Religious groups reported bureaucratic obstacles but less harassment during the registration process. The application of the regulations for registration of religious groups and places of worship sometimes varied with locality. Groups that did not comply with the registration requirement were forced to close their offices and places of worship.

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 country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees

and its 1967 Protocol and it has no laws for granting refugee status. The Constitution contains a provision that addresses political asylum, but there are no implementing regulations.

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 the forced expulsion of persons with 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 July 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. This was the fourth government of the democratic coalition elected in 1996. These political changes highlighted 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 20 registered political parties; 4 are represented in the Parliament.

Although there are no legal impediments to the participation of women or minorities in government and politics, women are underrepresented in the Government, with 8 female members in the 76-member Parliament. In December 1998, Parliament approved the appointment of the first female minister, the Foreign Minister. Women and women's organizations are 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 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

Violence against women is a serious problem. Although there are no reliable or exact statistics regarding the extent of such abuse, a wide range of qualified observers believe

that it is common. After many years of government and societal denial, there is increasing public and media discussion of domestic violence, including spousal and child abuse. 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. Some statistics show that over 70 percent of the cases of family abuse are related to alcohol abuse. The high rate of alcohol abuse has contributed to increased instances of family abuse and abandonment, and has 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.

However, the new family law which went into effect on July 1 details rights and responsibilities regarding alimony and parents' rights to bring about timely dispute settlement and avoid the causes of some domestic violence. The National Center Against Violence made progress in providing hot line services, shelters, and conducting training for police on how to deal with domestic violence cases and began to expand its work outside the capital. 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 work force, 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. There is no government agency that oversees women's rights.

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 adverse effects 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.

The society has a long tradition of support for communal raising of children. The Government is now more willing to admit the extent of the problem of orphaned children, but it lacks the resources to improve the welfare of children who have become the victims of larger societal and familial changes. NGO's continue to assist orphaned and deserted children. Groups working in this field disagree on the number of street children; some report that the figure is 400 to 500, while others count all poor children who may or may not be homeless and estimate that it is as high as 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; those facilities must turn to private sources to sustain their activities.

The new family law, which took effect on July 1, increases the obligations regarding divorce, custody, and alimony to the benefit of the parent caring for children. It provides for more speedy resolution of divorce cases where the relevant agencies have determined that domestic violence is involved.

There is growing awareness that child abuse, often associated with parental alcoholism, is a problem. In conjunction with efforts to counter violence against women, NGO's, have begun to address the issue.

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 and, therefore, it is difficult for the disabled to participate fully in public life. 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 dropped from 450,000 persons in 1998 to 430,000, and now is less than half of the workforce. Union membership decreased due to restructuring and privatization of former 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

The new labor law, which went into effect on June 1, defines conditions and regulates relations between employers, employees, the trade unions, and the Government, making adjustments for the changes in the structure of the economy. The Government's role is limited to ensuring that the contract meets legal requirements as to hours and conditions of work. Wages and other employment issues are to be set between the employer, whether state or private, and the employee, with trade union input, if appropriate. The new labor

law also streamlines the process for dealing with labor conflicts.

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 generally 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, and detained alcohol abusers and petty criminals are sometimes required to perform menial tasks such as street sweeping.

d. Status of Child Labor Practices 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 18 years of age may not work at night, engage in arduous work, or work in hazardous 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. Due to pressures of the economic transition, there are indications that fewer children are staying in school until age 18, especially in the countryside. The Government is aware of this development and, with foreign assistance organizations, it is monitoring such socioeconomic trends. The Government prohibits forced and bonded labor by children, and enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

According to the new labor law, the legal minimum wage ranges from under \$13 (13,000 tugriks) in some regions to \$17 (17,600 tugriks) per month in the capital. This level applies to both public and private sector workers and is enforced by the Ministry of Health and Welfare. The lowest wage is 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 standard legal workweek is 40 hours, and there is 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. The 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 occupational health and safety standards is difficult, but the Government

increased the number of full-time inspectors to 86 to cover the growing number of small enterprises. According to the labor law, workers have the right to remove themselves from dangerous work situations and still retain their jobs.

f. Trafficking in Persons

The law does not specifically prohibit trafficking in persons; and there is evidence that Mongolian women and teenagers are working in the sex trade in Asia and Eastern Europe. The problem is beginning to attract increased attention, and debate on its legal and social aspects is underway.

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