



# International Covenant on Civil and Political Rights

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## Human Rights Committee 120th session

### Summary record of the 3381st meeting

Held at the Palais Wilson, Geneva, on Friday, 7 July 2017, at 10 a.m.

*Chair:* Mr. Iwasawa

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Sixth periodic report of Mongolia (continued) (CCPR/C/MNG/6;  
CCPR/C/MNG/Q/6 and Add.1)*

1. *At the invitation of the Chair, the delegation of Mongolia took places at the Committee table.*
2. **Ms. Waterval** said that she would welcome information on the steps taken by the State party to implement its National Action Plan against Human Trafficking for the period 2015-2020. It would be helpful to learn how the Government intended to ensure that law enforcement services and NGOs providing support to victims had sufficient human and financial resources to address the issue of trafficking. Details were needed about the procedures in place for identifying victims of trafficking and about any specialized training and awareness-raising activities for law enforcement and border control officials.
3. The Committee would appreciate information on the measures in place to protect children from trafficking for sex and forced labour in the horse-racing, mining and construction sectors. It was unclear whether the State party intended to adopt a new national plan on the elimination of the worst forms of child labour, following the expiry of the previous plan in 2016.
4. She would be grateful for the delegation's comments on whether the right to conscientious objection to military service was guaranteed in law and in practice. If alternative service was not of equal length to military service, she would welcome clarification of the reasons for the disparity.
5. **Mr. Politi** said that he wished to know whether the State party had any concrete plans to establish a juvenile justice system. If that was the case, he would be interested to hear about the form the system would take and whether it would be fully in line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines). He would appreciate confirmation that juveniles were held in detention only as a measure of last resort and for the shortest time possible. Additional information would be welcome regarding the legal framework governing the separation of juveniles and adults in detention. It was unclear whether the State party's reference to separate rooms for minors in places of detention in rural areas in fact referred to fully autonomous facilities.
6. It would be helpful to learn whether there was any legislation in force to ensure regular and independent reviews of conditions for juveniles held in detention and whether juveniles were able to access special procedural mechanisms for obtaining interim release pending criminal proceedings against them. He would welcome an update on whether the Special Training and Education Centre for juvenile offenders in Bayanzürkh District had been completed and was now operational. It would be interesting to hear about the training provided at the Centre, the qualifications of the trainers working there and the number of juveniles the Centre was expected to accommodate.
7. The Committee would welcome the delegation's response to reports of the forced eviction of some residents in the ger districts in Ulaanbaatar. In connection with the case of Building No. 3 in the 10th administrative unit of Sukhbaatar District, it would like to hear about the action taken by the competent authorities to protect the rights of the affected residents, including by providing them with a long-term housing solution. The Committee would also like to receive an update on the court proceedings against the property developers, including their outcome and any compensation awarded to the residents for material and psychological harm.
8. The Committee was concerned about the number of disproportionate restrictions on the rights to vote, to stand for election and to campaign freely, as underlined in the report on the parliamentary elections held in 2016 issued by the observation mission of the Organization for Security and Cooperation in Europe. Further information would be

welcome on how the courts and administrative authorities interpreted and applied the restrictions on the right to stand for election on the grounds of unpaid debts or taxes, non-completion of military service or holding a criminal record for any reason. It was unclear whether the Government intended to modify the requirement for civil servants who wished to stand as political candidates to resign from their post several months in advance. It would be helpful to have a full account of the criteria according to which the courts could declare a person unfit to vote. In the light of reports that the legal provisions in place appeared to put small parties and new political actors at a disadvantage, there were concerns regarding the extent to which political campaigning was restricted. It would be interesting to learn whether the Government intended to take measures to ensure that all polling stations were accessible to persons with disabilities.

9. **Ms. Brands Kehris** said that it would be helpful to learn whether same-sex couples were able to legally register their relationships.

10. She would appreciate an update on whether the draft law on media freedom had been adopted. If it had not been, details would be welcome on the reasons for the delay and the prospective timetable for its adoption. Did the draft law contain provisions on widening access to information for journalists and if so, how would that be accomplished? It would be useful to receive an explanation of how and by whom journalists could be ordered to reveal their sources. It was unclear whether the new legislation covered the Internet, including social media.

11. The Committee would be grateful for the delegation's comments on the scope of the Law on State Secrets and its compatibility with the aims of the Law on Information Transparency and the Right to Information. It would be useful to receive clarification of the checks that were in place to ensure that the non-disclosure of information by public entities was neither arbitrary nor abusive.

12. The Committee had received reports that websites had been blocked or closed down because they contained information deemed to be critical of State authorities or high-ranking public officials. It would be helpful to learn about any plans to review and limit content controls to ensure compliance with article 19 of the Covenant.

13. She would welcome an account of the concrete measures taken by the State party to address the harassment, threats and violence allegedly faced by journalists and human rights defenders, including the investigation and prosecution of specific cases, such as the death of Luntan Bolormaa in November 2015. Noting that the new Criminal Code still included criminal liability for defamation and that the numbers of civil and criminal defamation cases appeared to have risen in recent years, she asked how the right to impart information of public interest was respected in law and in practice. It was not clear that the State party's approach to the issue was in line with article 19 of the Covenant.

14. The Committee had received reports that, despite the adoption of legislation protecting the right of children belonging to ethnic minorities to receive textbooks and instruction in their mother tongue, Tsaatan (Dukha) children still did not have adequate access to classes in the Tuvan language. Furthermore, the Committee was concerned about reports that serious problems remained with regard to the quality of education and the conditions in dormitories and boarding schools for children from nomadic herding communities. It would be helpful to receive updated information on any measures the State party had taken or intended to take in relation to the issue and the resources it planned to allocate to effectively implementing the relevant legislation.

15. Noting reports that the designation of the Tengis Shishged river basin as a national park in 2011 appeared to have had a negative impact on nomadic herders and that mining operations reportedly had a detrimental effect on the Tsaatan (Dukha) and other nomadic peoples, she would be grateful for an account of the concrete steps taken by the State party to preserve and protect the rights of national minorities and indigenous peoples, including the right of nomadic herding peoples to effective participation and to protection of their culture and traditional livelihoods and lifestyles.

16. **Ms. Cleveland** said that it would be helpful to learn about the steps the State party had taken to train the relevant government officials and raise awareness among employers

regarding the revision of the Criminal Code to include a prohibition on forced labour. She wished to know whether any cases had been brought under the provisions in question and how the enforcement of the legislation on forced labour had been strengthened.

17. The Committee had received reports that in 2011, Chinese construction and mining workers had been subjected to coercion and had their passports confiscated, while workers from the Democratic People's Republic of Korea had been prohibited from leaving work and a large portion of their wages had been paid directly to their Government. She asked what the authorities had done to investigate and address those allegations of exploitation. The delegation should comment on the concerns that had been raised about insufficient funding for labour inspections and on whether the Mongolian legislation on forced medical treatment allowed courts to impose compulsory labour on persons suffering from alcohol or drug dependencies.

*The meeting was suspended at 10.40 a.m. and resumed at 11.05 a.m.*

18. **Mr. Enkhbayar** (Mongolia) said that the Government had recently revised and approved the National Action Plan against Human Trafficking, and the applicable legislation had been streamlined. The Ministry of Justice and Home Affairs had implemented a number of measures jointly with the General Police Department to combat organized human trafficking. While only two police officers had previously specialized in trafficking crimes, an independent unit composed of 14 officers had been established in the Department on 30 June 2017, notwithstanding budgetary constraints and the lack of human resources. The Ministry of Justice and Home Affairs had also established a subcommittee on protection against trafficking, which was composed of not only judicial and legal officers but also representatives of civil society. Measures to combat trafficking were supported by both national and international bodies, especially the Asia Foundation, which supported a project focusing on law enforcement. Human trafficking had been incorporated in university curricula and there were special training courses for immigration, naturalization and border troop officers.

19. With regard to conscientious objection to military service, article 17 of the Constitution required citizens to perform military service and to defend the motherland. However, article 29.2 of the Law on Conscription permitted alternative forms of service on religious, ethical or other grounds. Military service was required for 12 months and alternative service for 24 months, because the persons concerned would be mobilized in the event of a natural disaster, an industrial accident or some other form of emergency. Article 7 of the Procedures for Alternative Conscription approved by Resolution No. 49 of 2008 permitted such conscription for official disciples of a temple or religious institution and for persons who had been declared ineligible for military conscription on religious or ethical grounds.

20. The reference in paragraph 60 of the replies to the list of issues (CCPR/C/MNG/Q/6/Add.1) to the prohibition of discrimination based on "medical conditions" should be amended to read "health conditions".

21. The policy regarding charges against juveniles had been amended in 2016. Article 8.4 of the new Criminal Code clearly stipulated that the sentences imposed on minors should be equivalent to half of the sentences imposed on adults. The Code also stipulated that children should not serve their sentences in prisons but in the special educational detention facilities defined in the new Code of Criminal Procedure. When detainees reached the age of 18, the relevant authorities would decide whether they should remain in the juvenile facility or be transferred to an adult detention facility. According to statistics for the previous decade, minors accounted for only 1.1 per cent of criminal offenders. The educational detention facilities were kept fully separate from adult facilities.

22. Resettlement planning for Ulaanbaatar city was a highly challenging issue. Amnesty International had provided detailed estimates of the requirements. The Ulaanbaatar Citizens' Representative Assembly had issued a regulation to the effect that contractual obligations would be legally fulfilled if companies reached an agreement with 75 per cent of the residents of the resettlement area. Some residents had filed a petition opposing the regulation, claiming that it violated their rights. In 2015 the parliament had enacted the Urban Redevelopment Law, restricting any activities that were contrary to its provisions.

The great delay in the construction of residential premises had created a major problem of homelessness. The Government had responded by placing 180 people in care premises for older persons.

23. The administrative legislation provided for broad public discussions and consultations on resettlement and urbanization issues. No commercial deal could be concluded with construction companies without the consent of owners of land and property. Amnesty International had drawn attention to a situation in which people were residing on property without having managed to conclude a protective contractual agreement with its legal owners. The residents had filed a claim with a view to obtaining legally recognized housing.

24. The Law on Elections had secured a consensus among the political parties and had been enacted in 2015. The Constitutional Court had ruled that the proportional representation system was contrary to the Constitution. The Law provided for equality of opportunity for all candidates. Civil servants were required to resign before running for election because they might abuse their status and public resources, and might even employ other civil servants to support their election campaign. Incomplete military service was not a legal restriction on electoral candidates. Moreover, under the new Criminal Code, persons who had fully served a prison sentence were entitled to run for election. The State Audit Office endeavoured to prevent candidates from making unreasonable pledges that were politically motivated. The parliament had approved fiscal and monetary policies that were in line with development goals. Pledges by electoral candidates regarding economic development that contradicted the development goals were deemed to be invalid.

25. As the Constitution stipulated that marriage was a consensual union between men and women, same-sex marriages were not legally recognized.

26. Legislation on free access to information had been enacted several years previously and freedom of expression was guaranteed to all. A wide range of media outlets conducted their activities without any legal restrictions. The confidentiality of journalists' information sources was also guaranteed by law. The provision concerning criminal liability for concealing information relating to a criminal case had been omitted from the new Criminal Code. Media staff were thus no longer compelled to reveal their sources. The amended Law on State Secrets was due to enter into force on 1 September. It reflected the provisions of the legislation on free access to information. The previous version of the Law on State Secrets could be interpreted by officials at their own discretion. The new Law listed about 30 specific items that fell into that category.

27. The death in 2015 of the well-known journalist and public figure Luntan Bolormaa had been investigated. She had long suffered from hypertension and the investigators had concluded that it was the cause of her sudden death. Law enforcement officers had broken the windows of her home to obtain access to the premises.

28. Defamation was not defined and sanctioned as a criminal offence in the new Criminal Code. However, two provisions were still of relevance to defamation. The first concerned claims that an individual had committed a major crime, and the second addressed situations in which explicitly false information was disseminated during an election campaign. The honour and dignity of all persons were guaranteed by the Constitution and protected by the State. The spreading of false defamatory information regarding an election candidate constituted a violation of the candidate's rights.

29. **Mr. Batbaatar** (Mongolia) said that a court had decided in 2014 to transfer responsibility for the Denjiin Myanga detention facility to the Bayanzag district detention centre. In accordance with the new Criminal Code, a number of inmates had been released from the latter detention centre on 1 July 2017. There were now just over 100 inmates, which was in line with the centre's capacity.

30. The Denjiin Myanga detention facility had been connected to the centralized water supply system in 2014. It operated a boiler system that ensured reliable heating in wintertime. The daily nutrition norm was 2,200 calories for each person.

31. The capacity of Ulaanbaatar Detention Centre No. 461 was 984 detainees and it currently accommodated 674 detainees. Twenty of the 28 detention centres in the area had

been refurbished and they all operated under normal conditions. The standard norm of 2.5 cubic metres per inmate was fully complied with and, in fact, exceeded, as the current average was 3.3 cubic metres per inmate.

32. **Ms. Narantuya** (Mongolia) said that the Tuvan language had been taught in primary schools since 2014 and that guidelines on Tuvan language teaching had been circulated to all primary schools by the Ministry of Education and Science.

33. The worst forms of child labour had been defined in a resolution issued by the Ministry of Labour and the use of children for such purposes was punishable under the new Criminal Code. Persons suffering from alcohol addiction were provided with a full package of medical services and were not subjected to ill-treatment or compulsory labour.

34. A total of 58 prisoners were currently receiving treatment for tuberculosis in a special clinic; those prisoners had all been infected prior to their imprisonment. There were no reports of a fresh outbreak of tuberculosis in prisons. A new clinic was being built and would be operational by the end of 2017.

35. **Mr. Enkhbayar** (Mongolia) said that under the new Criminal Code, the maximum duration of solitary confinement had been reduced from 30 years to 10 years. Prisoners who had been placed in solitary confinement and whose sentence was longer than 10 years served the remainder of their sentence in ordinary confinement. Prisoners could be transferred from solitary to ordinary confinement subject to the prosecutor's consent.

36. Judges were required to report any attempt to interfere with the independence of the judiciary. A fine of 3.5 million tugriks had recently been imposed on a person who had tried to influence the decisions of three judges.

37. Despite the economic hardship faced by the country, the salaries paid to the judiciary had risen steadily since 2013. They ranged from 2.5 million tugriks per month for first-instance judges to 6 million tugriks per month for Supreme Court judges, with an increase of 2 per cent for every five years of service. The average salary received by a judge was between three and four times higher than the earnings of other public servants.

38. Under the new Criminal Code and the Code of Criminal Procedure, the maximum duration of pretrial detention had been reduced from 24 months to 18 months; steps had also been taken to restrict the use of secret interrogation procedures. Legal assistance had been provided to 2,500 defendants in 2015 and 1,891 defendants in 2016. The budget for legal assistance had increased from 775 million tugriks in 2015 to 945 million tugriks in 2016. The legislation in that area had recently been amended to improve the provision of legal assistance.

39. There was no record of any cases in which the right of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons to freedom of peaceful assembly had been restricted. With regard to the allegation that the LGBTI Equality Walk had been denied access to Chinggis Square in August 2016, it should be noted that a certain portion of Chinggis Square was government property and could not be used for demonstrations; LGBTI demonstrators who had entered that part of the Square had therefore been requested by the police to leave the area.

40. No mining licences were issued for specially protected areas; the majority of the Tsaatan lived in a specially protected area in Khuvsgul province and were therefore not affected by mining.

41. **Mr. Politi** said that he would like to know whether the plan to establish a comprehensive juvenile justice system had been implemented and whether steps had been taken to establish specialized juvenile courts, taking into account the need for experts in child psychology, as well as specialist judges.

42. It would be helpful if the delegation could confirm whether all campaign platforms had to be approved by the Government and whether a political party whose manifesto did not comply with the economic development goals established by the Government would be prevented from standing for election.

43. **Ms. Brands Kehris** said that she would like to know whether the bill on media freedom had been adopted and if not, how soon it would be. She would appreciate a more detailed explanation of the bill's provisions, particularly those setting forth the grounds on which journalists could be required to disclose their sources, in the light of reports that the bill provided for an excessively broad range of grounds and thus did not meet international standards.

44. The Committee would welcome more information on the provisions on defamation in the new Election Law. The delegation had not yet addressed the question raised about civil defamation or clarified whether the bill on media freedom contained provisions relating to the Internet or social media. It would also be useful to know how many websites had been blocked by the Government and why those particular websites had been blocked.

45. She wished to know whether mining projects had adversely affected indigenous peoples in areas of the country that were not under special protection; whether the free, prior and informed consent of indigenous peoples had been obtained for such projects; and whether the designation of certain territories as specially protected areas actually threatened the livelihood of indigenous peoples by restricting their access to pasture land.

46. Information on measures taken to strengthen the operational independence and mandate of the national preventive mechanism would be appreciated, as well as responses to the questions raised by Ms. Cleveland regarding forced labour, forced medical treatment and the capacity of the labour inspectorate.

47. **Ms. Kran** asked what the average length of pretrial detention was, whether the time spent in pretrial detention was deducted from a person's prison sentence, what proportion of cases were handled using alternative measures, how many complaints had been received concerning pretrial detention and how those complaints had been dealt with. She further enquired whether there was any requirement to inform pretrial detainees of their rights and if so, which rights were included in that requirement.

48. **Mr. Enkhbayar** (Mongolia) said that the President would submit a proposal to the parliament regarding the establishment of a juvenile justice system. Once the parliament had approved that proposal, a specialized court would be established in each province.

49. Mr. Politi's understanding that the platforms of candidates running for public office had to be approved by the State Audit Office was correct. The aim was to prevent campaigns from making promises that would sorely test the country's economic and financial capacity.

50. Persons with disabilities enjoyed full suffrage in Mongolia. Persons with visual impairments, for instance, could be accompanied into the voting booth by a close relative or other authorized person, and prospective voters for whom polling stations were physically inaccessible were visited by elections officials who, accompanied by observers from political parties, arranged for them to cast their ballots. The authorities had no record of any complaints filed by persons with disabilities who had been denied the vote.

51. The parliament had rejected a bill containing amendments to the Law on Media Freedom. Adopting amendments to the Law, which would ensure freedom of the press, was nonetheless one of the targets the parliament was meant to achieve by 2020. Currently, persons found guilty of defamation incurred only a fine. An individual could be fined up to 2 million tugriks for defamation, whereas an economic entity could incur a fine of up to 20 million tugriks. The maximum amount of the fines had been set to reflect the considerable damage that could be done to the reputations or careers of the victims of defamation. The particulars of each civil defamation case were thoroughly assessed, however. The arbitrary award of damages or imposition of fines was in no way the norm. A new law had established penalties for defamation in online media.

52. In one case, the authorities had blocked a website hosting a blog that had been deemed objectionable. A court had found in favour of the website's owner, who had filed a petition claiming that the site had been blocked illegally. Access to the website was currently being restored.

53. Although the people of Mongolia were traditionally nomadic, sedentary ways of life were becoming increasingly common. As a result, there was a combination of two civilizations in the country. According to the most recent yearly livestock census, there were 56 million head of livestock in the country, a number that had been growing in recent years. The livelihoods and education of nomadic herders were a matter of particular concern to the Government. It was considering lowering their retirement age and subsidizing the production of cashmere, other kinds of wool and leather. Plans to allow herders to participate in a social insurance scheme were also being made. Those initiatives were but a few examples of the steps being taken to improve the lives of members of the herding community.

54. It would be difficult to comment on reports that mining companies had been granted licences to operate on traditional grazing lands without reference to the specific licences in question. In any event, a restriction on the granting of exploration licences had been in place since 2011, and as a result much less of the country's territory had been opened to exploration activity.

55. Issues relating to forced labour, which was a crime in Mongolia, were addressed by social welfare agencies and labour inspectors. The authorities had no records of any incidents of such labour involving foreign nationals located in the country. However, the embassies of some countries had raised questions about the repatriation of the salaries of nationals of theirs who were employed in Mongolia.

56. He would welcome a clarification of Ms. Kran's questions about pretrial detention. Had she wished to know more about the procedures for arrests in flagrante delicto or about the detention of persons who had already been charged?

57. **Ms. Kran** said that her questions had concerned the detention of persons arrested by the police and the information that they were given about their rights. She wished to know whether the authorities had received complaints of unduly long periods of pretrial detention and what happened when such detention exceeded the duration established by law. It would be interesting to know what the procedure for filing complaints about the length of pretrial detention was, how many such complaints had been filed in the past two years and what the outcome of those complaints had been.

58. **Mr. Enkhbayar** (Mongolia) said that the police could make arrests without a warrant from a judge when a person was caught in the act of committing a crime or when the evidence that a person had committed a crime was sufficiently clear. It had previously been possible to detain a person for up to 72 hours before bringing him or her before a judge, but under the new Criminal Code that period had been shortened to 48 hours. The parliament had considered further shortening the period to 24 hours, but that was infeasible in the many remote areas of the country.

59. Of the more than 6,600 persons arrested and jailed between 2014 and 2016, nearly two thirds had been charged with crimes and were still in detention. Under the new Code of Criminal Procedure, persons who were arrested had to be provided with legal assistance within six hours of their arrest. They were also informed of their rights. No evidence obtained in a manner inconsistent with the Code could be used against them. The authorities had no records of complaints of violations of the rights of arrested people.

60. **Ms. Narantuya** (Mongolia) said that juvenile justice committees, composed of psychologists, police officers, health workers and social workers, had recently been set up by the local authorities. Those committees would identify the needs of children who were in conflict with the law and ensure that they were provided with the necessary services, including education. The aim was to prevent reoffending.

61. **The Chair** said that if the delegation of Mongolia wished to submit additional information in writing, it could do so within 48 hours after the close of the meeting.

62. **Mr. Enkhbayar** (Mongolia) said that the Government of Mongolia would give all due consideration to the recommendations made by the Committee.

63. **The Chair**, stressing the fruitfulness of the dialogue with the delegation of Mongolia, said that the issues that had been highlighted and that were likely to be touched



on in the Committee's concluding observations, which would be issued at the end of the session, had included the lack of awareness of the Covenant in the State party and the underrepresentation of women in both the private and the public sector. Concerns had also been expressed about violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the human rights violations committed by the police during the state of emergency of July 2008 and restrictions on freedom of the press. There had also been positive developments. The Committee would not fail to acknowledge them in its concluding observations.

*The meeting rose at 12.55 p.m.*