

ADVANCE QUESTIONS TO MONGOLIA

SWEDEN

- In its resolution 62/149 of 18 December 2007 and 63/168 of 18 December 2008, the UN General Assembly called on States to establish a moratorium on executions with a view to abolishing the death penalty. In this regard, Sweden welcomes the moratorium on executions announced by the President of Mongolia on 14 January 2010.

Could the Government of Mongolia elaborate on the status of the death penalty in relation to the resolutions of the General Assembly (A/RES/62/149 and A/RES/63/168), including with regard to any plans to abolish the penalty de jure and to sign and ratify the Second Optional Protocol to the ICCPR?

Sweden recommends the Government of Mongolia to sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

On September 15, 2010 the Government of Mongolia discussed the MFAT's proposal to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty and decided to submit it to the Standing Committee of Security and Foreign Policy of the State Great Khural /the Parliament/ for its consideration. After the consideration of the Government's submission regarding the accession issue on 12 October, 2010 the Standing Committee of Security and Foreign Policy has decided to ask for the opinion of the Standing Committee of Legal Affairs. Now the issue is under intensive consideration of the Standing Committee of Legal Affairs.

- Civil society organizations report on attacks against LGBT individuals ranging from rape, physical and sexual attacks, arbitrary arrests and physical and sexual assault while in detention, by law enforcement officials and in some cases family members. Discrimination against LGBT individuals has also been documented, including being fired from employment or forcibly evicted on the basis of their real or rumoured sexual orientation or gender identity.

Could the Government of Mongolia elaborate on actions taken to ensure the full enjoyment of human rights, including freedom of expression, association and assembly, for LGBT communities in Mongolia?

According to the Article 7.4 of the Mongolian Labor law, an employer may not ask questions pertaining to the private life, ideology, marital status, political party membership, religious beliefs, or pregnancy of the employee unless such questions are related to the work or duty to be performed. There is not any case and data related to fire or discharge women from their work based on veracious news and rumor about their gender tendency.

Although Police Authority of Mongolia has not received any allegation of discrimination based on sexual orientation against LGBT individuals the Government

has been taking the following measures to prevent LGBT individuals from such discrimination:

1. to take constantly internal and prosecutor's supervisions;
2. to organize 'Open-Door-Day' each month in order to be close to the people and hear their complaint and request;
3. to support the participation of advocates in the process of interrogation of suspect and prosecuted person;
4. to adopt legislations prohibiting all forms of discrimination.

In the future, we are planning to make a survey on LGBT person and hear their need and request. By doing so, we are expecting to amend relevant legislations if there is urgent need.

Sweden recommends the Government of Mongolia to ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation, as in the case of LGBT individuals, and to bring to justice those responsible in accordance with international standards of fair trial. Sweden also recommends the Government of Mongolia to promote the rights to freedom of expression, association and assembly without discrimination of members of the LGBT community.

UNITED KINGDOM

- We should be grateful if you would provide information on the extent to which civil society was consulted in the preparation of your national report and how you plan to involve them in follow up?

Throughout the entire period of preparation of the National Report, the Working Group formed by the decree of Prime Minister of Mongolia has convened for 3 times and it, at various level, has held numerous consultative meetings involving the NHRC, NGOs and experts. In January 2010, a three day national training was organized in cooperation with the OHCHR, which was attended by over 70 government and NGO representatives. Tripartite consultative process, which included the Mongolian government, UNDP and civil society organizations, also took place in February 2010 and views on how to prepare this report were exchanged. Preparation process was sufficiently transparent as the first draft was put on the NAPHR's website: www.humanrights.mn on May 12, 2010 for public awareness. Hence a joint consultative process will regularly take place involving the representatives of NGOs.

- Please could you inform us as to whether an independent national human rights institution exists in your country and operates in accordance with the Paris Principles designed to guide the practice of such institutions?

Mongolia does have an independent NHRI established in 2001 through a separate law. The NHRCM was twice accredited "A" status by the International Coordinating Committee of NHRIs in 2003 and 2008. As this accreditation is made upon the compliance of individual NHRIs with Paris Principles, it proves that the NHRCM fully complies with the above principles.

- Could you please tell us what processes are in place to ensure the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and elaborate on what measures the Government will be taking to reduce the periods spent pre-trial detention before a case goes to trial?

In terms of the implementation of the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the Parliament of Mongolia amended Criminal Code on 1st of February 2008. As a result of the amendment, the Code recognizes torture, inhuman and degrading treatment as a crime. Now, every law enforcing person, an inquiry person and investigator, who tortures or takes cruel, inhuman or degrading measures during the investigation will be prosecuted and punished under the Code.

Furthermore, as a result of the amendment of Criminal Procedure Law made on 9th August 2007, an advocate defends his/her customer either from the time when the customer is deemed as a suspect or the beginning of immediate measures when no criminal case is initiated.

In terms of the reduction of the period of pre-trial process, Criminal Procedure Law decreased the period. Now it is based on the severity of crime:

1. for the less grave crimes, term of confinement under guard is no more than months;
2. for the grave one, it is no more than 12 months; and
3. for the specially grave crimes, it is no more than 24 months.

Prior to the 2007 Amendment, it was possible to extend the term of confinement under guard for minor accused up to 18 months and for adults accused up to 24 months. In order to investigate a crime in short period of time and reduce a possibility of unreasonable violation of human rights, the Parliament has reduced the terms. Comparison between current terms and the pre-amendment terms shows the significant reduction of the period of pre-trial process.

The Law gives special attention to children. Children/minors are confined under guard more shortly than the adults. For instance, general term for minors is up to 1 month. For less grave crime it is no more than 2 months; for grave crimes it is not over 4 months; and for special grave ones, no more than 8 months.

- Please could you tell us what plans are in place to amend the existing legislation, including the Criminal Code, with the aim of abolishing the death penalty in law?

A working group established under the Order of Minister of Justice and Internal Affairs of Mongolia has been working on the development of amendment draft of Criminal Code. These days, the Standing Committee of the Parliament is discussing an issue on the ratification of the Second Optional Protocol of the International Covenant on Civil and Political Rights. After the ratification, the

working group will develop a draft regarding the abolishment of death penalty. Currently it is working on the following options: firstly, to abolish the penalty utterly and lastly, decrease the number of crimes which has the sanction said in the Criminal Code.

- The UK notes that the Committee on the Rights of the Child remains concerned about the increasing number of street children. What would be grateful to know what plans the Government has to improve the life of the street children and eventually reduce the number of children living in poverty?

By the survey conducted by the Police Department of the city, NGO and the Ministry of Social Welfare and Labour in 2009, about 120 children live to roam around streets, cellars, and underground sewerages. Migration flow has been increased from countryside to capital due to heavy snow fall and harsh winter of last year. And the number of street/dead-end children has increased.

Only a state organization is Children Custody and Service Center of Capital Police Department /former Center for saving children and defining address/ is the only one public organization which runs activity in line of saving street/dead-end children. According to inhibiting street/dead-end children law in 1994, this organization has liability to arrest street/dead-end children, who roam around streets, cellars, and underground sewerages, to inhibit in order to prevent to accuse of being accomplice, to define their parents' address and to deliver their children.

Training and reintegration activities are passed over for children who are delivered for this center. Street/dead s end children are delivered repeatedly for this center and were delivered at most 90 times caused weak reintegration training for them. Thus, number of street/dead-end children is still high as define sum.

Ministry of Social Welfare and Labour initiated and implemented successfully as the pilot project "Music for child's development" which is to support and reintegrate the street/dead-end children into the society by music and culture and set an objective to eliminate dead-end children in positive period of economic growth due to mining sector's development in our country.

Within the project, reintegrating activities by music have been implemented by step by step for 45 street children who lived in the street and provided with special dormitory. The project based on "EI System" project which was implemented in Latin America in reintegrating the children through music and art into the social life.

"Center of Children Development and Protection" to socialize ownerless children which full invested by State budget under Ministry of Social Welfare and Labour was established based on "Music for children development" model project of State budget under Ministry of Social Welfare.

2. Following new cash benefit were stipulated in the under the Social Welfare Law which submitted to parliament for discussion.

This cash benefit has aim to support and provide with basic need for livelihood for the family and children who has lowest household income. This cash benefit will involve the people who has lowest household income, low income people that have

many children and family with lowest income rate for per member as well. Besides basic **cash** benefit for each family member, the benefit is added for children under age of 18 in terms of number of family members. Giving cash benefit for poor family is important to increase their consumption, to support children from poor family. In order to implement this grant, at least 60.0 billion MNT are needed. The cash benefit increase consumption of poor family by 14.2-19.0% and decrease poverty rate by at least 3.2-6.6% per year.

- Could you please tell us what steps the Government is taking to raise understanding and awareness of human rights standards in the civil service and local government?

National Human Rights Action Programme of Mongolia pays its significant attention to the awareness and education of civil service on human rights issues. It organizes constant trainings for not only civil servants but also local organizations and its employees. It fulfills its educational duty through its branches which are working in every Aimag (province). It should be acknowledged the support of the

National Human Rights Commission of Mongolia on this matter.

National Human Rights Action Programme aims to create a significant system of official and unofficial training on human rights issues. In terms of the realization of the aim, nowadays, the following organizations are training civil servants:

- The National Human Rights Commission;
- The Ministry of Education, Culture and Science;
- The Representative Office of Amnesty International in Mongolia; and
- The National Institute of Legal Studies

The National Program is about to discuss the reports and achievements of these organizations. We expect that the result of the discussion will be helpful for the determination of the most necessary measures.

- Could you please share with us how the Government will manage the follow-up to the Universal Periodic Review, and, who will be responsible for oversight of implementation, monitoring and reporting?

According to Mongolia's commitment stated in the National Report Mongolia will actively participate in the UPR process and devote its full effort in implementing proposals and recommendations of the Human Rights Council. In order to promote and protect human rights and freedoms globally, Mongolia shall engage itself in close cooperation with other countries, UN and its specialized agencies, and NGOs. The Ministry of Foreign Affairs and Trade of Mongolia will function as coordinator of overall implementation, monitoring and reporting.
