

ADVANCE QUESTIONS TO MONGOLIA – Add.1

CZECH REPUBLIC

- While welcoming President's declaration on *de facto* moratorium on death penalty, we would like to ask whether the Government of Mongolia intends to lift legislation classifying the penalty as a state secret with the aim to provide families of those who were executed with information on their relatives sentenced to death.

The Government of Mongolia supports the ratification of the Second Optional Protocol of the International Covenant on Civil and Political Rights. Now relevant Standing Committee of the Parliament is discussing whether the Parliament should finally ratify it. If the Parliament does so the working group established under the Order of Minister of Justice and Internal Affairs of Mongolia will develop the drafts of amendments. In this case, the drafts will cover all legislations regulating death penalty including the Law on State Secret.

- While taking note that right to employment is reflected in the Constitution we would like to ask what measures the Government of Mongolia has taken/is planning to take to combat a high poverty rate and high level of unemployment. How the Government guarantees prohibition of child labour?

The Government of Mongolia is implementing policies aimed at creating jobs, increasing employment, supporting citizens' initiatives and creating favorable environment for business implementing policies led up to provide each citizen with economically activeness and employment capacity and alleviating poverty. Within the above policy, new draft of Law on Employment Promotion has been developed and submitted to the Parliament of Mongolia for discussion. This law emphasized to define properly scope work for employment promotion activities, create additional services directed to the targeted groups who need social support and assistance, change & improve an employment promotion system in compliance with local feature and demands, de-centralize, increase duties and responsibilities by local administrative and employment organization and participation of private and NGOs in the employment promotion activities. Furthermore, the new program is being developed to prepare citizens for employment which required to adopt communication skill for employer and employees, manufactory rule and procedures, labour regulation, reintegrate citizens of targeted group and children who dropped out of school and are in labor-force age.

Approximately 40 percent of total employees of our country are working in official sector as earning salary and about 60 percent are herders and self-employed. However, number of unemployed person is increasing due to weather force majeure including drought, heavy snowfall and economic crisis and therefore, density/rate of employment in non-official sector with low-yield and non-permanent income in the agricultural sector is still high. Employees who are working in large numbers, it is permanently occurred that people are becoming an unemployed depending on. It causes to increase huge number of migration into urban and settled areas and high rate

of unemployment. Moreover, common difficulties for citizens who want to engage in farming or to create jobs are in lack of loan guarantee or collateral. Thus, the number of measures and steps to be taken was stipulated in the draft law to support citizen who intends to establish partnership and association and self-employer with professional advices, farming trainings, small loan, financial support and business incubation service.

Also, some programs on supporting special employment promotion for herders and students were approved and implemented through supporting the employment of youth and elders. All these measures are giving high results. As a result of above programs, 3700 students were mediated to the part-time job, 5000 students were involved in public campaign, 2500 students were included in consulting service and Centers for Students' Employment promotion have provided 8000 students with information and consultation and involved 500 students in economic and business trainings.

International program on the elimination of Child Labor by the International Labor Organization has been implemented projects on elimination of child labour in 5 provinces and districts of the capital city.

As a result of the successful implementation of these projects, rate of child labor has declined down by 54-89 percents. Promotion activities of these good examples are being distributed through nationwide. Therefore, National Program on Elimination of Child Labor is in process of development.

- What steps has Government of Mongolia taken for the protection of the young girls and women who became victims of sexual exploitation and for assisting them, for compensating damages, restoring their reputation, or for their rehabilitation?

Mongolian Government approved "National program on protection of women and children from human trafficking and sexual exploitation" in 2005 and has been implementing. Currently, in area of protection of human trafficking there are 2 organizations which in charge of victim protection accommodation, 5 organizations for judicial consultation, 4 organizations for psychiatric consultation and 10 organizations for training and capacity building.

Code of "Basic requirements for victim protection accommodation" was developed jointed with the Ministry of Social Welfare and Labour and concerned NGOs, and is being implemented after its approval by Standardization and Measurement Office. Due to this new code monitoring of activity of organizations working in this area was improved, security of victims was strengthened and types and quality of organizations' service was up scaled, which are considered important.

In the legal framework of some government duties which are executable by NGOs with contract, Non Governmental Organizations are provided with financing for protecting the health and life of victims from human trafficking, sexual exploitation, family abuse and social and psychiatric comprehensive services.

According to the Law on Social Welfare, the Government provides community based social welfare services including organizing several activities for employment, assist in overcoming poverty, to cover them in projects and programs, rehabilitation service, to accommodate, and cover with home based care and welfare. Elderly people, people with disability, children living in difficult situation, citizens who were abused and violated are covered by these services and reference cost per person is paid from Social Welfare Fund to citizens, entities, organizations which provide services. For instance cost for 1 day- service including accommodation and care for 1 person is 9000 MNT.

Law on Combating with Human Trafficking is being drafted by the Government of Mongolia with aim to protect rights, assist, pay compensation, revive reputation, and rehabilitate health of victims who were experienced human trafficking to resolve this issue in comprehensive way.

DENMARK

- Denmark is pleased to note the great efforts and progress made in Mongolia in the field of democracy and human rights.
- Which specific measures are taken by the Mongolian government to ensure that all prisoners and detainees are treated humanely and in conformity with national and international law?

Some purposes of the ‘Action Plan of Government: 2008-2012’ are directed to the welfare of prisoners. Particularly, it aims to support socializing of the prisoners among the society, discipline them using labour-oriented methods, educate and train them to the special working skills. In relation to the Action Plan, a special unit, ‘Education and Training Centre’, has been established under the supervision of the General Department of Court Decision Implementation (one of the agencies of the MOJHA). As a result of the training conducted by the unit, 150 prisoners had received professional certificates by the mid of 2010. The unit supports them by providing with working place. Moreover, it opens bank accounts for each prisoner who is working and locates their salaries to the accounts.

According to the Action Plan, the Government is obliged to gradually shift the type and regime of prisons from ‘closed’ to ‘open-n-closed’ system and confine prisoners in the places which meet international standards and domestic legal requirements. In order to implement the Action Plan, it has organized some meetings discussing the draft of Amendments of Criminal Code and Law on the Implementation of Court Decisions.

- When will Mongolia take steps to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment?

In terms of the ratification of the Optional Protocol, currently established working group is studying this issue. Collection of the pros and cons of public organizations is now in the process.

NETHERLANDS

- **Death Penalty**

The Netherlands welcomes the moratorium on the death penalty as declared on 14 January 2010, and views this as a step towards abolition of the death penalty. With reference to concerns raised by the Special Rapporteur on the question of torture in 2005 regarding the death penalty being classified as a state secret and the unavailability of reliable information on the number of persons sentenced to the death penalty that could be given to him, what steps does the Government of Mongolia intend to take to enhance transparency with regard to the implementation of the moratorium? Moreover, in light of Mongolia now being on the list of countries that have abolished the death penalty in practice as is mentioned in paragraph 20 of the national report, does the Government of Mongolia intend to move from *de facto* abolition of the death penalty to *de jure* abolition?

The Government of Mongolia supports the ratification of the Second Optional Protocol of the International Covenant on Civil and Political Rights. Now relevant Standing Committee of the Parliament is discussing whether the Parliament should finally ratify it. If the Parliament does so the working group established under the Order of Minister of Justice and Internal Affairs of Mongolia will develop the drafts of amendments. In this case, the drafts will cover all legislations regulating death penalty including the Law on State Secret.

- **Torture**

In light of the concerns voiced in paragraph 24 of the OHCHR compilation dealing with the legal definition of torture employed by the Government of Mongolia which the Special Rapporteur on the question of torture deems not in line with the CAT, would the Mongolian government consider to alter its definition of torture in line with the CAT and when can its initial report, overdue since 2003, be expected?

On 1st February 2008, the Parliament of Mongolia enacted the Amendment of Criminal Code. This Law made positive changes to the Code. Particularly, it altered the definition of the term ‘torture’ in line with CAT. For instance, before the amendment, the name of the article 251 of the Code was ‘Obtaining a confession forcefully’; now it is ‘Torture’. Moreover, as a result of the amendment, either inquiry person or investigator will be prosecuted and punished under the Code if he or she tortures or takes cruel, inhuman or degrading measures against suspect, in order to get information or a confession.

The Government of Mongolia will submit its initial report on the CAT for the discussion in November 2010.

- **Rome Statute**

Paragraph 2 of the stakeholder report implies that the Government of Mongolia has not yet implemented its obligations under the Rome Statute and has not yet ratified the Agreement on Privileges and Immunities. With a view to the effective functioning of the International Criminal Court, when could the Mongolian government enact the necessary legislation for the implementation of the Rome

Statute? Does the Government of Mongolia intend to ratify the Agreement on Privileges and Immunities?

Since the ratification of Rome Statute in 2002, Mongolia has taken major steps towards the implementation. For instance, in order to accord domestic laws with the Statute, the Government has established a working group that is responsible for the draft of the Law on the Protection of Witnesses and Victims. Moreover, there is another working group, established under the Order of Minister of Justice and Internal Affairs, developing the draft of the Amendment of Criminal Code. The duty of the working group is mostly related to the ratification of Second Optional Protocol of the International Covenant on Civil and Political Rights. As it is mentioned before, the Government supports the ratification of the Second Optional Protocol of the International Covenant on Civil and Political Rights. Nowadays relevant Standing Committee of the Parliament is discussing this issue. If the Parliament will ratify it the working group will develop the drafts of relevant amendments. A further survey has to be made in order to ratify the Agreement on Privileges and Immunities.

- **LGBT**

The stakeholder report (paragraph 15, 17, 18, 28, and 38) paints a very worrying picture of the protection of the rights of Lesbian, Gay, Bisexual and Transgender (LGBT) persons in Mongolia. Their rights are insufficiently enshrined in legislation and instances of violence and discrimination against LGBT persons seem to be on the rise. What concrete actions does the Government of Mongolia intend to take to guarantee the fundamental rights of LGBT persons in line with international human rights law and to promote their acceptance at all levels of society?

Constitution of Mongolia in itself reflected and regulated the legal basis of against all forms of discrimination of citizens.

In keeping with this, all forms of non discrimination have been regulated by the Law on Labour, Law on Employment Promotion and Law on Sending Labour force abroad and Receiving Labour force and specialists from abroad.

Upon the approval of the National Program on Employment Promotion (2001) and Strategy on Social Welfare (2003) by the Government of Mongolia, we made achievement for the legal basis on prevention from all forms of discrimination at work or the employment and promote the employment.

- **Women's equality**

In the OHCHR compilation, inter alia in paragraph 14 to 19, concerns are raised that although the Constitution prohibits discrimination on the grounds of sex, the equal treatment of women in society does not seem to be secured and it seems that women do not have the opportunity to take up their place in society. What concrete measures will the Mongolian government take to promote the equal treatment of women at all levels of society?

It is highly required to refine the national institutional structure to deal with gender equality and empowerment of women, improve legal environment and create a separate body responsible for these issues at the government level. For these purposes,

we are striving for having a standalone law on Gender equality adopted in accordance with the MDG-based Comprehensive National Policy of Mongolia, integrating gender issues into all level educational curricula, ensuring equality in property and labour relations, and increasing women's participation in decision making. For instance, the Government of Mongolia developed a draft law on Gender Equality with a view to creating legal environment to ensure equal participation of women at all levels, which has been submitted to the Parliament of Mongolia in 2009. The draft law is pending to be discussed at 2010 Fall Session of the Parliament.

SLOVENIA

- In 2008 CEDAW noted the existence of some discriminatory provisions in Mongolian laws. We would like to know if the Government has already reviewed all existing laws and amended remaining provisions that discriminate women?

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- CEDAW also expressed concerns about difficulties of rural women in accessing adequate health services, clean water and sanitation services and in participating in decision making. What are the activities of the Government on these issues? How could international community assist Government by its endeavors?

It is aimed to improve reproductive health of women, deliver necessary reproductive medical aids and service to every woman and to decline maternal mortality down to 50 as 4-times by 2015 comparing to 1990 (maternal mortality was 200 for 100.000 live births in 1990).

In recent years, maternity hospitals have been operated, under the hospital of all soums and clinical hospitals of all provinces with the purpose to deliver medical aids and services to the pregnant mothers who have high mortality risk and nomadic herders who are living in outlying region where infrastructure hasn't developed yet.

98-99 percent of pregnant mothers are involved in medical care and 99 percent is giving birth under the supervision of doctors and specialized obstetrician in hospital condition. It gives good results for decreasing maternal mortality as giving an opportunity mothers who have pregnancy and delivery complication, originated from vulnerable group. Not a few countries are interested in the experience of our country and consider it as effective method for decreasing maternal mortality.

Medical aids and service haven't been delivered promptly where necessary because of lack of professional personnel and staff, undeveloped infrastructure and communication in local areas. Also, migration across the province and soum depending on drought and heavy snowfall into the center and settled places affects on worsening of maternal and child health control and increases workload of health organizations.

It gives results because one-point service of pregnancy control tied to diagnosis, therapy and advising of sexually-transmitted diseases has founded in several districts of the capital city and some provinces.

Medical aids and service costs for mothers and children are completely and pharmaceutical and other required costs for reproductive health partly covered by the state in Mongolia. Moreover, projects have been implemented in local areas by the support and assistance of International organizations and donor countries.

- The ILO committee of experts reported a high drop-out rate of children of herders, while CRC reported about limited access to education by children from herder families in remote and rural areas, by children from families that migrated to the capital city and by children from informal mining communities. What measures does the Government intend to take for improvement of the situation?

State funded boarding schools have been established at soum and bag (administrative units) areas, where children of nomads and herders can go to schools. 54.6 percent of herders' children, who applied for dormitory, reside at dormitories in the academic year of 2009-2010. However, school dropouts have not stopped. As of September 2009, 0.8 percent of total basic school-aged children are dropped out of school, of 61 percent of them being boys. There are many reasons for school dropouts, but poverty is the dominant factor.

Higher education institutions choose their students on the basis of competitive entry examinations. Students from lower income or herder family, children with disabilities or orphans are financially supported by the State Training Fund in forms of grant or loan. Talented or students with strong academic record may also receive scholarships and financial incentives. Students, who study far from their permanent residence, collect travel payment and urban students benefit from transportation costs.

SWITZERLAND

- Will the government of Mongolia amend its national legislation in order to define torture as a crime in accordance with the definition in the UN Convention against Torture? Does the government intend to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment?

In 1st February 2008, the Parliament of Mongolia enacted the Amendment of Criminal Code. This Law made positive changes to the Code. Particularly, it altered the definition of the term 'torture' in line with CAT. For instance, before the amendment, the name of the article 251 of the Code was 'Obtaining a confession forcefully'; now it is 'Torture'. Moreover, as a result of the amendment, inquiry

person and investigator will be prosecuted and punished under the Code if he or she tortures or takes cruel, inhuman or degrading measures against suspect, in order to get information or a confession.

Currently established a working group is studying the ratification of the Optional Protocol. Collection of the pros and cons of public organizations is now in the process.

- Will the government of Mongolia look into the improvements of its detention facilities and ensure that the conditions meet international standards?

In 1999, the Parliament adopted the Law on the Implementation of Decisions Detaining Suspect and Prosecuted Person. The Law sets both international and domestic standards for detention facilities. Furthermore, a ‘Procedure for Detention and Confinement Centre’ was adopted by the Order #78 of Minister of Justice and Internal Affairs on 9th April 2007. Under the Procedure, for instance, the following measures have to be taken:

1. When suspect or prosecuted person comes to the detention or confinement centre, he or she ought to be received and registered in the presence of policeman who is responsible for him or her.

2. After the registration, suspect or prosecuted person has to be examined by medical practitioners. Medical practitioner must make a note for each person. Besides, he or she has to fortnightly examine detainee or confined person.

In order to improve the lightening and air conditioning and expand the space of detention rooms some detention and confinement centers have been renovating and enlarging gradually.

- What measures is the government putting in place to ensure that discrimination on the basis of sexual orientation and gender identity will be prohibited?

Constitution of Mongolia in itself reflected and regulated the legal basis of against all forms of discrimination of citizens. Therefore, Mongolia has ratified the Convention on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

In keeping with these, all forms of non discrimination have been regulated by the Law on Labour, Law on Employment Promotion and Law on Sending Labour force abroad and Receiving Labour force and specialists from abroad.

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