

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** MNG30504  
**Country:** Mongolia  
**Date:** 28 August 2006

Keywords: Mongolia – Employment records – Social Security records – Lesbians

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

---

#### Questions

1. Do social security record books exist in Mongolia?
2. Are the books used to show new employers details such as dates they were hired, fired, departed previous employment and their salary?
3. If so, are the books required for every type of employment?
4. Is the harassment of lesbians widespread throughout Mongolia, or restricted to certain areas/cities?

#### RESPONSE

##### 1. Do social security record books exist in Mongolia?

The two most recent pieces of legislation on labor relations enacted in Mongolia do not contain specific references to “social security record books”. However, the *Labor Law of Mongolia* adopted on the 24 January 1991 and amended on 14 January 1993 does refer to an employee’s “work-book” (*Labor Law of Mongolia*, adopted 24 January 1991 and amended 14 January 1993, Indiana University website, Articles 23,24,55,58

<http://www.indiana.edu/~mongsoc/mong/laborlaw.htm> – Accessed 21 August 2006 –

Attachment 1). This law was repealed and replaced in 1999 by the more recent *Labor Law of Mongolia* which refers to an employee’s “social insurance book” or “social security and health insurance journal”. The difference in terminology for the 1999 *Law* reflects different translations in two sources (‘Mongolia Labour codes, general labour and employment acts’, International Labour Organisation website (undated)

[http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=MNG&p\\_classification=01.02&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=MNG&p_classification=01.02&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY) – Accessed 22

August 2006 – Attachment 2; *Mongolia Labour Code* (Unofficial translation) 1999, Sections 43 and 46 International Labour Organization website, 14 May

<http://www.ilo.org/dyn/natlex/docs/WEBTEXT/57592/65206/E99MNG01.htm> – Accessed 21 August 2006 – Attachment 3; and *Labor Law of Mongolia* 1999, Sections 43 and 46

Mongolian Embassy in Ottawa Canada website, 5 May  
[http://www.mongolembassy.org/doc/labor\\_law.pdf](http://www.mongolembassy.org/doc/labor_law.pdf) – Accessed 21 August 2006 – Attachment 4).

**2. Are the books used to show new employers details such as dates they were hired, fired, departed previous employment and their salary?**

The repealed 1991 *Labor Law of Mongolia* refers to “work-books” and to how they are to be used and not used in Articles 23, 24, 55, and 58. These articles state:

**Article 23. Work-Book**

1. The **Work-Book** shall constitute the basic document concerning the worker’s employment activities.
2. The administration shall start the **work-book** record of the worker from the date he assumes his job or post.

**Article 24. Dismissal and Transfer of Work**

1. In cancellation of the contract of employment, the administration shall determine the date of the transfer of work and fix it in the dismissal decision.
2. The last day of the transfer of work shall be deemed as the date of dismissal.
- 3 The administration is under obligation to give the worker the dismissal benefit and his **work-book** on the day of dismissal.
4. The administration has the obligation to provide at the worker’s request a certificate on his work record, qualification, official position and wage status.

**...Article 55. Payment in Connection with Wrong Dismissal or Transfer**

1. If a worker is restored to his job or post after having been dismissed or transferred to another job or post wrongfully, he shall be compensated with his previous average wages, for the period of his being out of work or with the difference of the wages if he was transferred to a job or post with lower pay.
2. If an incorrect record in a worker’s **work-book** has caused interference in finding employment or compelled him to take up job with lower pay, the worker shall be compensated with the previous average wages for the whole unemployed period or with the difference in the wages where he had to get employed in a work with lower pay.
3. If the administration’s delay in the delivery of the worker’s **work-book** caused him to remain unemployed, the worker shall be compensated with the previous average wages for the whole period he was in wait.

**...Article 58. Labor Discipline Liabilities**

1. The administration shall impose on the worker who committed acts in breach of labor discipline the following penalties (through appropriate order, resolution or decision):
  - (1) censure;
  - (2) fine deducted from the wages by up-to 20 percent for a period up-to three month;
  - (3) dismissal.

2. No penalty shall be imposed after the expiry of one month since the revealing of the offense and of over six months since the commission thereof.
3. Imposing double penalty for one and the same offense is prohibited.
4. Making a record of disciplinary penalties in the **workbook** is forbidden.
5. Upon the expiry of one year after imposition of the disciplinary penalty, the worker shall be deemed having no disciplinary penalty (*Labor Law of Mongolia*, adopted 24 January 1991 and amended 14 January 1993, Indiana University website, Articles 23,24,55,58 <http://www.indiana.edu/~mongsoc/mong/laborlaw.htm> – Accessed 21 August 2006 – Attachment 1).

The more recent 1999 *Labor Law of Mongolia* refers to a “social insurance book” or to a “social security and health insurance journal” in Articles 43.3 and 46.2. According to the translation found on the International Labour Organization website, these articles state:

**Section 43. Dismissal and transfer of work**

43.3 The employer shall be obligated to provide the employee dismissed with the decision on the dismissal, **social insurance book** and, if it is provided by law, with dismissal allowances on the date of dismissal.

**...Section 46. Social insurance coverage.**

46.1 Unless it is otherwise specified in the law, it is mandatory that the employer and the employee working under a labour contract shall be insured with social and health insurance and shall be obligated to pay each month social insurance withholdings in the amount specified by law.

46.2 The employer shall be obligated to open a **social insurance book** for an employee starting at the date when labour contract is established, and make records of each monthly social insurance withholding and fees in accordance with the relevant regulations (*Mongolia Labour Code* (Unofficial translation) 1999, Sections 43 and 46 International Labour Organization website, 14 May <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/57592/65206/E99MNG01.htm> – Accessed 21 August 2006 – Attachment 3).

The translation offered on the website of Mongolian Embassy in Ottawa Canada gives the same articles as:

**Article 43. Dismissal and acquiescence of work**

43.3 The employer has the duty to furnish the employee with the decision concerning the annulling of the labor agreement, **and social and health insurance journals**; and, if directed in the Laws, dismissal subsidy on the day of dismissal.

**...Article 46. Insuring social insurance**

46.1 The employer and the employee working under a labor agreement must, if not directed in the legislation, obtain social and health insurance and shall pay percentage of the social insurance’s deductions each month as directed by Law.

46.2 The employee shall from the date of the composed labor agreement, open a **social security and health insurance journal** for the employee, and according to regulations hereto, shall make records of the monthly deductions and payments (*Labor Law of Mongolia* 1999, Sections 43 and 46 Mongolian Embassy in Ottawa Canada website, 5 May

[http://www.mongolembassy.org/doc/labor\\_law.pdf](http://www.mongolembassy.org/doc/labor_law.pdf) – Accessed 21 August 2006 – Attachment 4).

### **3. If so, are the books required for every type of employment?**

No information was found in the sources consulted specifying which types of employment require employees to have a “record book”. However, both the 1991 and 1999 *Labor Laws of Mongolia* contain articles indicating the general types of employment relations between employer and employee covered by the laws. Article 3 of the 1991 *Labor Law of Mongolia* stipulates the types of “relations” which the law applies to:

#### **Article 3. Relations Regulated by Labor Law of Mongolia**

The following relations are regulated by the Labor Law of Mongolia:

1. Labor relations between the administration of governmental, non-governmental, cooperative, private enterprises and/or organizations and the citizens working on contract of employment,
3. [sic] Labor relations between the administrations of joint ventures or foreign enterprises and organizations functioning in this country and the citizens an contract of employment with them unless otherwise provided for in the international treaties of Mongolia;
3. Relations arising from the contract of employment between the citizens. Hereinafter the parties to the contract of employment shall be referred to as “administration” and “worker” (*Labor Law of Mongolia*, adopted 24 January 1991 and amended 14 January 1993, Article 3 Indiana University website <http://www.indiana.edu/~mongsoc/mong/laborlaw.htm> – Accessed 21 August 2006 – Attachment 1).

Article 4 of the 1999 *Labor Law of Mongolia* states that the following “parties” are governed by this law:

- 4.1 This law shall govern, the below mentioned, both parties’ labor agreement relations as well as other labor relations that are inherited from it, namely,
  - 4.1.1 between the Mongolian State citizens, establishments, foreign and domestic enterprises that are operating in the territory of the Mongolian State;
  - 4.1.2 between the Mongolian State citizens, stateless bodies, foreigners, and Mongolian State citizens;
  - 4.1.3 between the domestic enterprises and establishments as well as foreigners and stateless bodies;
  - 4.1.4 between the stateless bodies, citizens, foreign enterprises and/or establishments that are operating in the territory of the Mongolian State, if not directed in the Mongolian State’s international agreement.
- 4.2 The directives in connection to this law shall apply if this law was agreed to be abided to, or, the employees of unified property and labor have not set the regulations in alignment with labor relations (*Labor Law of Mongolia* 1999, Article 4 Mongolian Embassy in Ottawa Canada website, 5 May [http://www.mongolembassy.org/doc/labor\\_law.pdf](http://www.mongolembassy.org/doc/labor_law.pdf) – Accessed 21 August 2006 – Attachment 4).

### **4. Is the harassment of lesbians widespread throughout Mongolia, or restricted to certain areas/cities?**

No information was found in the sources consulted on the geographical distribution of the harassment of lesbians in Mongolia. Expert opinion was sought to answer this question via an email sent on 22 August 2006 to the email address of the Mongolian Lesbian Information

Centre (MILC) in Mongolia. The email request is supplied as Attachment 5 (RRT Country Research 2006, Email to Mongolian Lesbian Information Centre: 'Request for Information from Refugee Review Tribunal, Sydney, Australia', 22 August - Attachment 5.)

A reply from the Mongolian Lesbian Information Centre (MILC) was received on 25 August 2005. Three documents were received: a letter from Anaraa Nyamdorj Olhonuud, founder/coordinator of the MILC (Olhonuud, A.N. 2005, Email to RRT Country Research 'Re: harassment of lesbians in Mongolia', 25 August – Attachment 6); a letter from Robyn Garner, General Manager-project coordinator, News and Information Association of Mongolia (Garner, R. 2005 Email to RRT Country Research 'Re: harassment of lesbians in Mongolia', 25 August – Attachment 7); and a conference paper delivered by Anaraa Nyamdorj Olhonnud at the recent Outgames International LGBT Human Rights Conference held in Montreal Canada 26-29 July 2006 (Olhonuud, A.N. 2005, Email to RRT Country Research 'Life Denied: LGBT human rights in the context of Mongolia's democratisation and Development', 25 August – Attachment 8).

The most pertinent statement found in the three documents received answering the question is found in the letter from Robyn Garner. She writes:

...I have travelled widely in Mongolia, and it has been my experience that there are very few lesbians and gays who have escaped harassment and violence when their sexual orientation has become known. The violence most often come from family members...beatings are by no means isolated incidents, and equally affect lesbians and gays in both urban and rural areas.

There is no anecdotal evidence to suggest that harassment is based on geographical location. On the contrary, it affects people throughout the country. In smaller towns and villages of Mongolia, lesbians and gays maintain a very low profile and try to keep their sexual orientation hidden (Garner, R. 2005, Email to RRT Country Research 'Re: harassment of lesbians in Mongolia', 25 August – Attachment 7).

## **List of Sources Consulted**

### Internet Sources:

#### **Government Information & Reports**

Mongolian Embassy in Ottawa Canada website <http://www.mongolembassy.org>

#### **Non-Government Organisations**

Mongolian Lesbian Information centre website <http://www.mongoldyke.org.mn>

#### **Topic Specific Links**

International Labour Organization website <http://www.ilo.org/>

#### **Search Engines**

Google search engine <http://www.google.com.au/>

#### **University Sites**

Indiana University website <http://www.indiana.edu/>

### Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

## List of Attachments

- 1 *Labor Law of Mongolia*, adopted 24 January 1991 and amended 14 January 1993, Indiana University website <http://www.indiana.edu/~mongsoc/mong/laborlaw.htm> – Accessed 21 August 2006.
- 2 ‘Mongolia Labour codes, general labour and employment acts’, International Labour Organisation website (undated) [http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=MNG&p\\_classification=01.02&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=MNG&p_classification=01.02&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY) – Accessed 22 August 2006.
- 3 *Mongolia Labour Code* (Unofficial translation) 1999, International Labour Organization website <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/57592/65206/E99MNG01.htm> – Accessed 21 August 2006.
- 4 *Labor Law of Mongolia* 1999, Mongolian Embassy in Ottawa Canada website, 5 May [http://www.mongolembassy.org/doc/labor\\_law.pdf](http://www.mongolembassy.org/doc/labor_law.pdf) – Accessed 21 August 2006.
- 5 RRT Country Research 2006, Email to Mongolian Lesbian Information Centre: ‘Request for Information from Refugee Review Tribunal, Sydney, Australia’, 22 August.
- 6 Olhонууд, A.N. 2005, Email to RRT Country Research: ‘Re: harassment of lesbians in Mongolia’, 25 August.
- 7 Garner, R. 2005 Email to RRT Country Research: ‘Re: harassment of lesbians in Mongolia’, 25 August.
- 8 Olhонууд, A.N. 2005, Email to RRT Country Research: ‘Life Denied: LGBT human rights in the context of Mongolia’s democratisation and Development’, 25 August.