



Submission by the United Nations High Commissioner for Refugees

**for the Office of the High Commissioner for Human Rights' Compilation Report
(Excerpts of Treaty Body Concluding Observations and Special Procedure
Reports) - Universal Periodic Review:**

MONGOLIA

We would like to bring your attention to the following excerpts of Treaty Body Concluding Observations and Special Procedure reports relating to issues of interest and concern to UNHCR with regards to Mongolia.

Treaty Body Concluding Observations

CRC/C/MNG/CO/3-4 (CRC, 2010)

C. Main areas of concern and recommendations

Birth registration

33. The Committee notes that since 2006 birth certificates are issued free of charge in the State party. However, in spite of high birth registration rates, the Committee is concerned that nearly ten percent of births are not registered due to, among others, internal migration, remoteness of birth registry locations, and lack of awareness among herder families on the importance of birth registration.

34. The Committee recommends that the State party continue and strengthen its efforts to register all children, with a special focus on children in remote areas and from herder families, including the opportunity for late registration free of charge.

Asylum-seeking and refugee children

63. The Committee notes the State party's intention to accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol but is concerned that steps to this effect have been slow. The Committee regrets that there is no available information on children of migrants, refugees and asylum-seekers.

64. The Committee reiterates its recommendation (2005, para. 57) to the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Furthermore, it recommends that the State party, taking into account

article 22 and other relevant provisions of the Convention, take all feasible measures to ensure full protection and care, as well as access to health, social services and education, of asylum-seeking and refugee children in the State party. Moreover, it recommends the establishment of a database to obtain disaggregated data on asylum-seeking and refugee children and to guide a comprehensive policy. It also recommends the State party to ratify the Convention on the Rights of Migrant Workers and their Families.

Sale, trafficking and abduction

71. While noting measures taken by the State party to combat trafficking of children, the Committee is nevertheless concerned that trafficking for the purposes of sexual or other exploitation, such as work in mining, is still a problem in the State party. The Committee is further concerned about the lack of reliable information regarding the extent of human trafficking and regrets that many of the existing measures and programs for prevention of human trafficking and victim protection and assistance are carried out by NGOs and international agencies with little or no support from national budgetary resources.

72. The Committee reiterates its recommendations from previous concluding observations (2005, para. 65) and urges the State party to:

(a) Take all measures to ensure the protection of children from international and internal trafficking and sale;

(b) Strengthen efforts to address the root causes of sale and trafficking, including gender-based discrimination and poverty

(c) Allocate sufficient resources (human and financial) to policies and programmes in this area to provide comprehensive social and psychological assistance to child victims of sale and trafficking for their recovery and social reintegration;

(d) Establish a system for collecting and disaggregating data on sale and trafficking of children; and

(e) Carry out prevention and awareness-raising activities in collaboration with relevant partners.

CERD/C/MNG/CO/18 (CERD, 2006)

B. Positive aspects

9. The Committee welcomes the enactment, in 2002, of the new Civil Code which stipulates that non-citizens have the same rights as citizens in civil legal matters.

C. Concerns and recommendations

13. While acknowledging the State party's security concerns, the Committee remains concerned that articles 24 and 25 of the Legal Status of Foreign Citizens (1993)

prescribe numerical thresholds for the entry and residence of non-citizens according to nationality (arts. 2 and 5).

In light of its general recommendation 30 on non-citizens, the Committee recommends that the State party consider the possibility of amending the relevant provisions of the Law on the Legal Status of Foreign Citizens (1993) so as to ensure that its immigration policy does not have the effect of discriminating on the basis of nationality.

17. Following the State party's statement that the rights of non-citizens are granted on the basis of reciprocity, the Committee is concerned that the rights and freedoms guaranteed under article 5 of the Convention may not be fully available to non-citizens in Mongolia to the extent recognized under international law (art. 5).

In light of general recommendation 30 on non-citizens, the Committee urges the State party to take all necessary measures to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights and to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law. The Committee wishes to receive information in this regard in the next periodic report.

18. While noting that the State party has been cooperating with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee is concerned that the State party has yet to enact legislation on asylum matters and to introduce an asylum-determination procedure. It also regrets the lack of information provided by the State party on refugees and asylum-seekers residing in Mongolia, including information on unaccompanied asylum-seeking minors, given that under article 19 of the Law on the Legal Status of Foreign Citizens (1993), children without accompanying guardians are automatically denied entry into Mongolia upon arrival (art. 5).

The Committee requests the State party to provide in the next periodic report updated information relating to the treatment of refugees and asylum-seekers, including information on rules and procedures governing the treatment of unaccompanied asylum-seeking minors. The Committee recommends that the State party take effective measures to guarantee the rights of asylum-seekers to information, interpretation, legal assistance and judicial remedies, and invites the State party to consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

20. While taking note of the explanations provided by the State party that in practice, non-citizens are not prohibited from changing employment provided that they inform the relevant agency, the Committee is concerned about article 11.3 of the Law on the Legal Status of Foreign Citizens (1993) which prohibits non-citizens from entering into a new labour contract prior to the expiry of the contract with which he/she entered Mongolia. Furthermore, the Committee seeks clarification of the law and practice permitting employment of non-citizens in the public service in light of its general comment 30 on non-citizens (art. 5 (e) (i)).

The Committee recommends that the State party amend the relevant articles of the Law on the Legal Status of Foreign Citizens (1993) to ensure that non-citizens are able to freely exercise their right to seek alternative employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. The Committee also encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

CRC/C/15/Add.264 (CRC, 2005)

D. Principal subjects of concern and recommendations

Committee's previous recommendations

7. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.48) made upon the consideration of the State party's initial report (CRC/C/3/Add.32) have been addressed through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, school drop-out among boys in rural areas and to prevent their involvement in child labour (para. 23), to reinforce the access to basic services for children (health, education and social care) in rural areas (para. 23), to reinforce the access to basic services for children with disabilities throughout the country (para. 23), the promotion and protection of the rights of refugee children (para. 26), the judicious distribution of resources at central and local levels (para. 27) and the rights of children in conflict with law (para. 29), have not been sufficiently addressed.

8. The Committee urges the State party to make every effort to address the recommendations made in the concluding observations on the initial report that have not yet been implemented, and to address the list of concerns contained in the present concluding observations on the second periodic report.

Refugee children

56. The Committee welcomes the State party's efforts to protect refugee children, particularly those coming from the Democratic People's Republic of Korea, by respecting the principle of non-refoulement and by assisting in the search for durable solutions. But it is concerned that children seeking refugee status in Mongolia do not always receive appropriate protection and assistance in the enjoyment of their rights under the Convention.

57. In the light of article 22 and other relevant provisions of the Convention, the Committee reiterates its previous recommendation (see CRC/C/15/Add.48, para. 26) that the State party accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, to develop specific asylum legislation, which should include particular provisions on the protection and treatment of asylum-seeking children, especially those who are unaccompanied and separated and that it accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

Special Procedure Reports

Report A/HRC/7/20 (2008)

SR on the situation of human rights in the DPRK

IV(C). Visit to Mongolia

54. *The main impact of the situation in the Democratic People's Republic of Korea on Mongolia relates to the influx of its nationals who have exited from the country in search of asylum. In recent years, there has been a continuing flow of these persons through a neighbouring country into Mongolia. Mongolia's policy towards the group has been based upon humanitarian considerations, offering them temporary asylum prior to durable solutions. It has abided by the international principle of "non-refoulement" of those who seek asylum and has worked closely with the United Nations High Commissioner for Refugees (UNHCR) in the process. In 2007, several hundred persons, originally from the country, sought protection and assistance in Mongolia and they are housed in various facilities before being processed for resettlement in the Republic of Korea.*

55. *From the angle of the country's engagement with the international system which has bearing on the protection of those seeking asylum in the country, Mongolia is already a party to key human rights treaties and is now considering accession to the Convention relating to the Status of Refugees and its Protocol. It is also in the process of acceding to the United Nations Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and against the Smuggling of Migrants by Land, Sea and Air.*

56. *The Special Rapporteur notes commendable progress, since his previous visit, in regard to improvements concerning the facilities sheltering asylum-seekers. These facilities now offer more space and are better ventilated than in the past. The Special Rapporteur was informed by those who are sheltered at these facilities that they are well cared for and that they look forward to a new life in their final destination country. A recurrent pattern of the life stories of this group is that they left the country clandestinely, under dangerous circumstances, before making their way through a neighbouring country, and ultimately arriving in Mongolia in search of safety. Their reasons for departure from the country vary from political reasons, such as persecution and forced labour, to economic reasons, such as the quest for a new livelihood.*

57. *The majority of the group are women and some landed up in exploitative situations, such as forced marriage, before reaching Mongolia. Both male and female cases indicated to the Special Rapporteur that they had spent several years in the neighbouring country before seeking to leave the country. While some had been subjected to human trafficking, such as forced marriage, at times with children as a result of the union, others had taken up employment in the neighbouring country mentioned, although threatened with uncertainty due to their undocumented status, prior to moving to Mongolia. Nearly all cases that the Special Rapporteur witnessed stated that they had paid or promised to pay substantial sums to smugglers to help*

find their way to the Mongolian border. The sums demanded by the smugglers were around two to three and a half million Korean won, possibly with an additional “advance” sum. Several had left their families behind either in the country or in the neighbouring country where they had been forced to marry. They were afraid of the consequences of exposure of their identity, especially in regard to potential retaliation in the country against their families, and they expressed a strong desire for confidentiality.

58. On analysis, interestingly the flows of people from the country are often mixed or composite flows with a variety of motivations, with subsequent reasons for moving on after residing for a number of years in a neighbouring country, before finally heading to Mongolia, usually paying their way through a smuggler. Some come as part of small groups arranged by intermediaries. Upon arrival at the border, Mongolian authorities offer them initial shelter before sending them to Ulaanbaatar for more detailed processing prior to resettlement in another country. Clearly a consistent challenge is to afford them protection and assistance, consistent with international human rights standards and/or international refugee law, at all stages of the migration process. This entails the responsibility to protect these persons accessibly and effectively, in the interlinked chain of countries from the source, through transit, to the final destination.

59. With regard to responses to the situation, the country has cooperated well with UNHCR, particularly in improving the physical conditions of the facilities sheltering asylum-seekers from the country. It has published in Mongolian a book on refugee-related instruments, as well as the UNHCR Handbook for Emergencies, with the support of UNHCR. It is also in the process of joining the International Organization for Migration which will be an additional avenue to address migration issues in the region.

60. The following preferred orientations are thus underlined:

– The Special Rapporteur welcomes Mongolia’s consideration of accession to the Convention on the Status of Refugees and its Protocol, and urges expeditious accession to these treaties, complemented by effective implementation at the national and local levels.

– The Special Rapporteur welcomes Mongolia’s future accession to the United Nations Convention against Transnational Organized Crime and its Protocols, and encourages victim-sensitive procedures as part of the implementation process to ensure that victims of human trafficking and/or human smuggling are not criminalized, with due regard to gender sensitivity and the needs of special groups such as children.

– The Special Rapporteur invites the Mongolian authorities to continue the policy of affording humane treatment to those seeking asylum in the country, with the provision of facilities to meet their physical and psychological needs, including the possibility of counselling in the Korean language to alleviate their traumas, and productive activities, including vocational training and education, pending their departure to the resettlement country.

– *The Special Rapporteur recommends a broad capacity-building process, in cooperation with civil society, to convey a positive image of those who seek asylum in the country, including training of officials on international standards, and awareness-raising among parliamentarians and the public to nurture an attitude of empathy towards those who seek protection in Mongolia.*

– *The Special Rapporteur supports continued and strengthened cooperation between the Mongolian authorities and United Nations agencies, including UNHCR, to promote and protect human rights, including the rights of those who seek asylum, in accordance with international standards, complemented by procedures to promote the identification of cases needing protection, fostering transparency in the spirit of international solidarity and responsibility-sharing.*

Report A/HRC/4/15 (2007)

SR on the situation of human rights in the DPRK

IV(C). Visit to Mongolia

64. *Given the strategic position of Mongolia in North-East Asia, the country has adopted a policy of friendly relations with its neighbours, including those of the Korean peninsula. The main impact of the human rights situation in the Democratic People's Republic of Korea on Mongolia in recent years has been the issue of those who have fled from the former to seek the protection of the latter. This is influenced by both humanitarian concerns and national security considerations. It will be recalled that the 1992 Mongolian Constitution provides an avenue for the grant of asylum for those seeking refuge as follows (art. 18): "(4) Aliens or stateless persons persecuted for their convictions or for political or other activities pursuing justice, may be granted asylum in Mongolia on the basis of their well-founded requests." This was further elaborated in the 1993 Mongolian law on the legal status of foreign citizens. There is a delicate balance to be established with national security concerns.*

65. *UNHCR has been present in the country since 2001. While the collaboration between that Office and the national authorities has been developing concretely, some sources met by the Special Rapporteur felt that there was more room for the national authorities to cooperate with that agency, especially in the sharing of information to ensure transparency. Recent indications of logistical and technical support to be given by the Office to Mongolia are also welcome.*

66. *The current position of the Mongolian authorities is to treat those escaping from the Democratic People's Republic of Korea as humanitarian cases, although the national law tends to refer to them as "border-crossers". The policy abides by the international principle of non-refoulement which prohibits the sending back of refugees (or deportation) to their country of origin or other territories where there is a threat of persecution. In reality, these persons are in transit in Mongolia, as they later depart for another country for long-term settlement. That position on the part of the Mongolian authorities should be commended and supported for its humanitarian stance which bodes well for the country's commitment to democracy and human rights. The country also has various mechanisms, such as the National Human Rights*

Commission of Mongolia, which help to provide checks and balances to promote and protect human rights, in addition to a vibrant civil society and a variety of media.

67. There is the question of accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The authorities in Mongolia are in the process of consulting various agencies on the issue. A positive consequence of accession would be that it would help to set clear benchmarks for dealing with those who seek refuge, and this would result in a system providing greater clarity and transparency in relation to refugee status. It would need to be enhanced by international support to shoulder the task together in the quest for durable solutions, including resettlement in other countries where appropriate, bearing in mind the limited resources which Mongolia may be able to provide as a developing country.

68. For the future, key directions for Mongolia include the following:

(a) Sustain its humanitarian policy and practice towards those who seek refuge in the country;

(b) Protect and assist refugees, bearing in mind various vulnerable groups such as women and children and the need to cooperate closely with UNHCR;

(c) Ensure that the conditions under which those who seek refuge are temporarily maintained are transparent and open to access by that United Nations agency;

(d) Continue to abide by international human rights law and international law concerning refugees, ensure effective implementation measures and build capacity among law enforcers, including by means of training on human rights and refugee law for border officials, and raise awareness among the public to nurture sympathy and understanding for those who seek refuge;

(e) Accede to the 1957 Convention and its 1967 Protocol, and adjust the country's laws, policies and mechanisms accordingly, with key support from and in cooperation with UNHCR and other United Nations agencies, coupled with effective implementation measures.

69. The international community should complement the above by providing relevant support as part of international solidarity, bearing in mind the responsibility of the State of origin (of those who seek refuge elsewhere) to address the root causes of outflows and the need for all countries to abide by international human rights and refugee law, whether as source, transit or destination countries.

Report A/60/306 (2005)

SR on the situation of human rights in the DPRK

IV(B). Visit to Mongolia

54. Since 1999 Mongolia has been witnessing an influx of persons from the Democratic People's Republic of Korea seeking refuge. On average, several hundred persons annually manage to cross the border into Mongolia on its eastern frontier, at times in groups and at times alone, seeking refuge. Recent flows suggest that more

young women are seeking refuge, at times with children. The pattern suggests that several spend a period of time in China before entering Mongolian territory. The influx into Mongolia appears to be “organized” in that the persons seeking refuge have been assisted by various entities working clandestinely to secure the entry of these persons into Mongolia.

55. Once they gain access to Mongolian territory, they are interviewed by border personnel and other concerned authorities before being taken to the capital city for more in-depth interviews and medical assistance. The current position of the Mongolian authorities is to provide temporary shelter to these people and to treat them as humanitarian cases. This policy abides by the international principle of non-refoulement, which prohibits the sending back of refugees (or deporting them) to their country of origin where there is a threat of persecution. In reality, these persons are in transit, as they later depart for the Republic of Korea for long-term settlement. Official sources indicate that pending their exit, those seeking refuge in Mongolia are cared for in Ulaanbaatar, and there are no plans on the part of the Government of Mongolia to set up a refugee camp to house them.

56. The Mongolian authorities should be commended and supported for their humanitarian stance which bodes well for the country’s commitment to democracy and human rights. The country also has various mechanisms, such as the National Human Rights Commission of Mongolia, which help to provide checks and balances to promote and protect human rights. It should not be forgotten that there are various economic pressures at home, since Mongolia is still a developing country with limited resources and widespread poverty. The humanitarian stance is also fraught with political difficulties, since some neighbouring countries currently differ from Mongolia in their approach on how to treat those who seek refuge from the Democratic People’s Republic of Korea.

57. Since 2001 UNHCR has been present in Mongolia and helps to build the capacity to respond to the situation of those seeking refuge. Some sources whom I met felt that there was more room for the national authorities to cooperate with UNHCR, especially to share information and ensure transparency concerning influxes. Currently there is also a move by Mongolia to accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and this is welcome. There is also OHCHR representation in the country.

58. The above scenario should be placed in context. The strategic position of Mongolia — between two great Powers — and geographically near the Democratic People’s Republic of Korea and the Republic of Korea highlights the care with which the country must chart its course in international relations in general, and on the issue of asylum and refugees in particular. The country maintains good relations with the neighbouring Powers and with both the Democratic People’s Republic of Korea and the Republic of Korea. The friendly historical ties with the Korean peninsula are witnessed by the fact that in the 1950s at the time of the Korean war, Mongolia provided shelter to orphans from that region. Although the Democratic People’s Republic of Korea closed its embassy in Mongolia some time ago, the Democratic People’s Republic of Korea has now re-established it and it is doubtless aware of the presence of those seeking asylum in the country.

59. *The careful policy adopted by Mongolia is to maintain friendly relations with all parties while adopting a humanitarian approach towards those who seek refuge. The fear of a mass influx of non-nationals into Mongolia, and its possible destabilizing effect, inevitably influences policy-making and security concerns. This is pertinent not only to those seeking refuge from the Democratic People's Republic of Korea but also from other countries.*

60. *I met and talked to a number of people who had sought asylum in Mongolia and their accounts provided key indications concerning refugee status. Most of the group were women in their twenties and thirties. They told me about harrowing and distressing experiences in the Democratic People's Republic of Korea ranging from persecution and discrimination to enforced disappearances of family members, collective punishment of families by the State authorities, hunger and economic deprivation, the privileged position of those in power, the State's intolerance of those who disagree with those in power, forced labour, "re-education", and inhuman prison conditions for those imprisoned for trying to leave the country without permission from the authorities. Some had tried to escape from the country twice, but upon arrival in a neighbouring country were deported back to the Democratic People's Republic of Korea, where they were imprisoned and labelled "criminals" or "traitors". Subsequently they escaped again and ultimately arrived in Mongolia overland, crossing the territory between the Democratic People's Republic of Korea and Mongolia.*

61. *All those whom I met had come to Mongolia through a neighbouring country with the help of some organizations, and they had either paid a large sum of money (about 3 million won, nearly US\$ 3,000) or were "under contract" to pay the sum upon arrival in the resettlement country. Some of those whom I met felt that this was the sole way of gaining access to the border to seek refuge in Mongolia. The journeys are not only dangerous but also replete with difficulties, such as the need to pay officials to allow passage before reaching Mongolia. One of the women I interviewed provided evidence indicating that before she managed to seek refuge in Mongolia, she had been trafficked for dubious purposes in a neighbouring country, after which she was able to get help to reach the Mongolian border. They were all very grateful to the Mongolian authorities for providing refuge and hoped to resettle in the Republic of Korea. I also received reports that some religious organizations were helping those seeking refuge gain access to the destination country.*

62. *One of the perennial challenges internationally and nationally, is ascertaining and identifying refugee status; such status provides international protection in the absence of national protection. Under international law, a refugee is generally a person who leaves her/his country of origin owing to a "well-founded fear of persecution". This is conditioned by both subjective elements, e.g. a person's feelings and experiences, and objective elements, e.g. the situation in the country of origin. A key right pertaining to such status is non-refoulement.*

63. *Currently, Mongolia regards those who seek refuge from the Democratic People's Republic of Korea as humanitarian cases, without specifically calling them "refugees". The country does not yet have a law specifically to determine refugee status, although various national laws contain provisions that give the authorities discretion to grant asylum. The current policy of granting temporary refuge to these*

people already indicates a degree of flexibility in applying the immigration-related provisions: while in national law, these people may be seen as illegal bordercrossers, in effect, they are not treated as such. They are not punished for crossing the border without visas, but are housed temporarily in Mongolia on humanitarian grounds, pending resettlement in another country.

64. Preliminary analysis of the situation suggests that currently, those seeking asylum from the Democratic People's Republic of Korea who enter Mongolia fall primarily into two groups: they are refugees, or "refugees sur place". The most certain way of knowing into which category those seeking refuge fall is to have a screening procedure (e.g. a panel) to determine their status, preferably with the presence of the primary United Nations agency dealing with the issue, UNHCR. Currently, while informal interviews are carried out by the Mongolian authorities in regard to those seeking refuge, a formal mechanism of the nature just noted does not yet exist and needs to be developed. With such a mechanism, there will be greater clarity, certainty and objectivity in the determination of the status of those seeking refuge in the country. In practice, the authorities tend to classify those who seek asylum from the Democratic People's Republic of Korea as humanitarian cases without delving into formal investigations into whether they are refugees or not. This approach provides a kind of euphemism, aimed partly at keeping the situation low-key and partly at avoiding a negative reaction from other countries that may not be agreeable to a humanitarian policy.

65. One issue affecting those seeking refuge that has arisen in recent years is the problem of human trafficking and smuggling. Basically, human trafficking is the transfer of a person by another person for the purpose of exploitation, e.g. sexual exploitation, forced marriage, or other forms of slavery; this may be within a country or across borders. Smuggling, however, is where an intermediary helps a person to cross the border illegally into another country. The international position is now clarified by the Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organised Crime of 2000. Mongolia is considering accession to these treaties. In international law, victims of trafficking or smuggling should be treated as victims and should not be punished. However, human trafficking and smuggling should be criminalized and action should be taken to punish the traffickers and smugglers. This should be seen in the light of the fact that in several cases, refugees are in such desperate situations that the only way that they can find refuge in another country is through the use of traffickers or smugglers, at times with fake travel documents. Moreover, in reality, a distinction should be made between criminals who profit from trafficking and smuggling refugees, on the one hand, and non-governmental organizations or civil society members who assist refugees to find a safe haven. The call for criminalization should be vis-à-vis the former rather than the latter.

66. Nor is their refugee status to be affected if the persons concerned are also victims of trafficking or smuggling. This is clarified by the "saving clauses" found in both Protocols mentioned above, to the effect that the status of trafficked persons or smuggled persons is not to compromise their status as refugees where the criteria are satisfied under international law, including under the Convention relating to the

Status of Refugees. A person does not lose her/his refugee status merely because s/he is also trafficked or smuggled.

Recommendation on the country visit to Mongolia

67. For the future, key directions for Mongolia include the following:

(a) Sustain its humanitarian policy and practice in sheltering those who seek refuge in the country;

(b) Protect and assist refugees, bearing in mind various vulnerable groups such as women and children and the need to cooperate closely with UNHCR;

(c) Continue to abide by international human rights law and international law concerning refugees, ensure effective implementation measures, and build capacity among law enforcement officials, including by means of training in human rights and refugee law (particularly the principle of non-refoulement) for border officials, and raise awareness among the public to nurture sympathy and understanding for those who seek refuge;

(d) In the case where persons are trafficked or smuggled, treat them as victims, ensure that they are not penalized and use victim-sensitive procedures;

(e) Accede to the Convention relating to the Status of Refugees and its Protocol, and adjust the country's laws, policies and mechanisms accordingly, with key support from and in cooperation with UNHCR and other United Nations agencies;

(f) Utilize independent mechanisms such as the National Human Rights Commission of Mongolia to help monitor the situation and support non-governmental organizations and civil society to help those who seek asylum in the country, in addition to building a network among key actors and computerizing the data on refugees and other non-nationals

E/CN.4/2006/6/Add.4 (2005)

Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak

Mission to Mongolia

7. The Special Rapporteur met with members of the diplomatic community, including Ambassadors N. Chapuis (France), R. Austen (United Kingdom of Great Britain and Northern Ireland) and P. Slutz (United States of America). He met representatives of the United Nations Country Team in Mongolia, including UNDP, UNICEF and UNHCR.

12. According to the 1992 Constitution, "Mongolia adheres to the universally recognized norms and principles of international law..." (art. 10.1), fulfilling "in good faith its obligations under international treaties to which it is Party" (art. 10.2). Chapter 2 of the Constitution, entitled "Human Rights and Freedoms", contains a list

of key basic rights in article 16, including, among other things, the right to life, the right to submit a petition or a complaint, the right to personal liberty and safety, and the right to a fair trial. The Constitution also contains provisions for certain rights of aliens and asylum-seekers.

Appendix

Individual cases:

By letters dated 20 July and 2 August 2005, the Special Rapporteur notified the Government of allegations by the following persons, whom he interviewed during the mission. The Government responded to some by letter dated 22 September 2005:

1. Enkhbat Damiran, aged 44 (subject of a previously transmitted communication for which no response has been received; see E/CN.4/2004/56/Add.1, para. 1021). On about 15 May 2003, Enkhbat Damiran, who was seeking asylum in France at the time, was beaten by officers of the General Intelligence Agency (GIA) of Mongolia outside a restaurant in Paris, smuggled across the French border in a Mongolian embassy vehicle to Brussels, and then to the Mongolian embassy in Berlin. He was held at the embassy for one night and was tortured by Mongolian agents before he was drugged and boarded in a wheelchair onto a Mongolian MIAT flight to Ulaanbaatar on 18 May. His entry into Ulaanbaatar was not registered by the border police and he was taken to a secret location outside the capital. He was tortured, unsuccessfully, to confess to the murder of the well-known politician Zorig Sanjasuuren, a former Minister of Infrastructure and a recognized champion of the democracy movement. On 24 May he was registered as a GIA informant and his entry into Mongolia was subsequently registered by the police as 25 May. During his torture, Enkhbat Damiran was, among other things, forced to sit on a stool for hours, beaten on the liver with a pistol, and was subjected to mock executions. In June 2003, Lodoisambuu Sanjaasuren, a 58-year-old lawyer, was retained by Enkhbat Damiran. In the course of his representation, Lodoisambuu Sanjaasuren videotaped a 36-minute interview of Enkhbat Damiran describing the details of his abduction and torture by the GIA. On 27 September, Channel 25, a Mongolian television station, broadcast the video. This led to criminal charges against Lodoisambuu Sanjaasuren, a former intelligence agent, and Enkhbat Damiran under article 87(1) of the Criminal Code for revealing State secrets. In November 2004, Lodoisambuu Sanjaasuren was sentenced to 18 months' imprisonment and served his sentence in Prison No. 421 (Amgalan), an ordinary regime facility. The Special Rapporteur visited him in the medical ward on 7 June 2005, where he was under doctors' care for a serious heart condition. He alleged that he did not receive specialist medical care and the necessary medication for his condition. On 8 June 2005, the Special Rapporteur visited Enkhbat Damiran, who is currently detained in Prison No. 413 (Zuunkharaa), a strict regime facility, and is serving a three-year sentence for having revealed State secrets. The murder charges had been dropped as they obviously had been fabricated. At the time of the visit, Enkhbat Damiran was examined by an independent doctor. It was apparent that he was in very poor health, had difficulty breathing and was suffering from cirrhosis and bleeding in his urine, among other things, and that he was in need of immediate medical treatment, including appropriate medication. Although he has been sent to the Zaisan Prison Hospital, he receives only cursory treatment there and is repeatedly sent back to Prison No. 413 despite his deteriorating health. The Special Rapporteur requests information on the measures

taken to investigate the allegations of torture and ill-treatment of Enkhbat Damiran. He is aware that both men have appealed to the President for pardons, and the Special Rapporteur appealed on their behalf personally to the President on humanitarian grounds—especially because of their poor health—that they be released from custody. In addition, the Special Rapporteur is convinced that the convictions for having revealed State secrets are in violation of international human rights law. It was Mr. Sanjasuuren’s right and duty as defence counsel to make well-substantiated allegations of torture by the GIA public, and it is the right of a torture victim to publicly disclose facts about his torture.

2. By letter dated 22 September 2005, the Government informed the Special Rapporteur that Enkhbat Damiran had received medical treatment during the period of his imprisonment: at the Central Hospital of Prisons, where he continues to be treated, he received treatment eight times in the past. In addition, he has received treatment at specialized clinics such as the oncology clinic and in Hospitals I, II and III. His complaints were dealt with according to the relevant rules and procedures. However, in the view of the Special Rapporteur, Mr. Damiran was sentenced in blatant violation of international human rights law and should be released immediately. At the same time, criminal investigations should be initiated in respect of the alleged perpetrators of torture.

3. The Government reported that Lodoisambuu Sanjasuuren was sentenced on 8 November 2004 to 18 months’ imprisonment in Prison No. 421 by the Chingeltei District Court. After he had served more than half of the sentence he received a conditional early release on 9 August 2005 from the Bayanzurkh District Court. During his eight-month imprisonment he stayed at the Central Prison Hospital for 72 days, received treatment for 72 days at the prisoners’ polyclinic, and spent time in the prison hospital. He received cardiology treatment at Polyclinic III. The Special Rapporteur welcomes the early release of Mr. Sanjasuuren, and appeals to the Government to provide him with measures for his full rehabilitation as a practising lawyer. In addition his efforts to prove his innocence and to investigate the kidnapping and torture of Enkhbat Damiran should be fully supported by the Government. It is of the utmost importance that the whole truth about this highly delicate case is revealed to the public and the European countries concerned. It is also necessary that the perpetrators of all human rights violations in this case be brought to justice.

Report E/CN.4/2005/47/Add.2

Report of the Special Rapporteur on the right to food, Jean Ziegler (2005)

Mission to Mongolia

I. Hunger and food insecurity in Mongolia

A. The harsh winters and dzuds

8. It is important to understand that during the early 1990s, there was a “return to the land”, with many families driven back to rural areas to escape escalating urban poverty. Thousands of people lost their jobs in urban areas as the economy collapsed and State industry was dismantled during the brutal economic transition, and many turned to herding as the only alternative. The number of herders rose dramatically from 147,508 to 417,743 between 1990 and 1999 (an increase of 183 per cent in just

one decade) and the urban population fell by 13 per cent between 1989 and 1998.⁶ However, some of the new or returning herders proved ill-prepared for the difficulties and risks of pastoral life. Many people taking up herding concentrated around the water sources and soum (county) and aimag (province) centres, which led to problems of overgrazing and land degradation in areas close to population centres. Exacerbated by the massive death of livestock during the dzuds, many herders were eventually forced to return back to the city. Between 1995 and 2000, 75,000 Mongolians migrated to Ulaanbaatar.

IV. Main findings and concerns

B. Violations of the right to food

47. Certain groups appear to be sometimes excluded from social assistance and services, such as unregistered migrants, single mothers, women-headed households, street children, the Tsaatan minority and people without identity documents. The National Human Rights Commission found that 41 per cent of poor people had no identity documents and more than 50 per cent were not aware of their entitlements under the law. There are also concerns that some groups, especially women, migrants and rural and ger district populations, have been affected by inequities in the privatization process. In Ulaanbaatar for example, tenants were granted automatic free ownership of their apartments, but residents in the surrounding ger districts were not granted equivalent benefits or land titles.

V. Conclusions and recommendations

(ix) Actions be taken to ensure that all groups have access to adequate social services and assistance, including not registered migrants and families without documents. The current restructuring of the social security system must include a review of the potential impacts on food security;

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