



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
29 August 2014

Original: English

Committee on the Elimination of Racial Discrimination

**Consideration of reports submitted by States
parties under article 9 of the Convention**

**Nineteenth to twenty-second periodic reports
of States parties due in 2012**

Mongolia*

[Date received: 22 May 2014]

* The present document is being issued without formal editing.

GE.14-15195 (E)



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I. Introduction

1. The present report is submitted pursuant to article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, according to which the States parties are required to submit periodic reports to the United Nations Secretary-General on the measures taken to implement the Convention and the progress achieved.
2. The recommendations by the Committee during the discussion of the sixteenth to eighteenth periodic reports of Mongolia were taken into account, and reflected into the present report.
3. The report was written according to the guidelines adopted by the Committee on the preparation of the report, and it includes facts and data pertaining to the period from 2006 to 2012, and mostly reflects indicators for the period of 2009-2012.

II. General information

4. Mongolia is located in North-East Asia between the 41° 35' and 52° north latitude and 87° 44' and 119° 56' east longitude. It is a landlocked country with a territory of 1,562.0 thousand square kilometers. Desert and steppes occupy the majority of the territory with forests accounting for less than 10 percent. There are abundant resources of minerals and raw materials such as gold, copper, uranium, and coal deposits. Mongolia shares a 3,543 kilometer border with the Russian Federation to the North and 4,709.6 kilometer border with the People's Republic of China to the South. It is 2,392 kilometers from West to Eastern frontier and 1,259 kilometers from North to Southern frontier.
5. Mongolia adopts a parliamentary form of a government and enacted its new democratic Constitution in 1992. Every 4 years the elections of the State Great Hural (Parliament) and the President are held. In addition, local elections are held every 4 years, whereby the self-governing bodies (Citizens' Representative Hurals) of 21 aimags (aimags are subdivided into soums; soums into bags) and the capital city (the capital city is subdivided into districts and districts into khoroos) are elected.
6. As of 2012, population of Mongolia was 2 million 867 thousand people. 49.5 percent of the total population is men and 50.5 percent is women, giving a sex ratio at 98.1. In the total population the proportion of people aged 0-14 years stands at 27.3, the proportion of people aged 15-64 years stands at 69.0, while the proportion of people aged 65 years and over stands at 3.7. At the end of 2012, the average life expectancy was 68.7 years, from which life expectancy of male was 64.9 years, and life expectancy of female was 74.3 years. In comparison to 2002 data, life expectancy increased by 5.2 years, and in comparison to 2006 data it increased by 2.8 years respectively. In 2012, the Human Development Index was 0.778. In Mongolia the national minority groups are: Turegs/Kazakhs, 3.86 percent; Tsaatan, 0.01 percent; and Tuvas, 0.20 percent. The majority of national minority groups sparsely reside in Bayan-Ulgii and Khuvsgul aimags.
7. Bayan-Ulgii aimag leads other Western aimags by its population statistics. In 2006, its population amounted to around 100.1 thousand people (around 21.4 thousand households),¹ and, as of 2012, its population stood at 90.5 thousand people (20.6 thousand households). Bayan-Ulgii aimag has 13 soums, 86 bags, and 1 village, and it occupies a territory of 45.7 thousand square kilometers. As of 2000, 29 different ethnic groups resided

¹ Statistical Yearbook of Mongolia, 2007, 2008, UB, p. 84.

in this aimag, whereby 88.7 percent of the total population was constituted by Kazakhs, 7.2 percent by Uriankhais, and the rest by Tuvas, Bayads, and Khalkhas.²

8. Representatives of Mongolian national minority groups such as Kazakh (Khasag), Tsaatan (Dukha) and Tuva people reside in Tsengel soum, Bayan-Ulgii aimag, and, as of 2009, out of the population of 8,300 people in Tsengel soum 83.48 percent were Kazakhs, and 14.84 percent or around 1,500 people were Tuvas. However, in 2012, there were 3,876 people comprising 1,700 households.

9. Tsaatans belonging to Tuva national minority group reside in Tsagaan nuur soum, Khuvsgul aimag, and, as of 2010, out of the total number of 664 Tsaatans comprising 138 households in Tsagaannuur soum there were 436 people of pure Tsaatan descent, and 228 people of mixed Tsaatan descent.³

III. Information relating to articles 2 to 7 of the Convention

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.

10. Paragraph 2 of article 14 of the Constitution of Mongolia provides, “no person shall be discriminated against on the basis of national or ethnic origin, language, race, age, sex, social origin and status, wealth, occupation and post, religion, opinion or education. Everyone shall have the right to act as a legal person”, which indicates that Mongolia prohibits all forms of discrimination. Therefore, this constitutional concept is reflected in all major laws that regulate social relations. For example, the laws such as the Law on the Courts/2012/, Criminal Code/2002/, Family Law/1999/, Law on Civil Procedure/2002/, Law on the Implementation of the Order on the Arrest or Detention of the Suspect or the Accused/1999 include provisions prohibiting discrimination of people on the basis of their national or ethnic origin, language, race, and religion.

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations.

11. As a Member of the United Nations, Mongolia continues to fulfill its commitment towards the protection of human rights and fundamental freedoms in accordance with its national legislation and the international treaties and conventions to which Mongolia is a party, paying close attention towards the elimination of racial discrimination. The main fundamental law for combating racial discrimination is the Constitution of Mongolia.

12. Mongolia is a party to international conventions aimed at the protection of human rights, the rights of specific groups of people or minority groups such as the Universal Declaration of Human Rights of 1948, the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, the International Labour Organization (ILO)

² 2010 Population and housing census of Bayan-Ulgii aimag.

³ 2010 Population and housing census of Bayan-Ulgii aimag.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Recommendation, 1958 (No. 111), the Convention against Discrimination in Education of 1960, the International Covenant on Civil and Political Rights and the first Optional Protocol 1966, the International Covenant on Economic, Social and Cultural Rights of 1966 and the Optional Protocol of 2008, the International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and its Optional Protocol of 1999, and the Convention on the Rights of Persons with Disabilities and its Optional Protocol of 2006. In addition, as provided in paragraph 3 of article 10 of the Constitution of Mongolia, international treaties to which Mongolia is a party shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession. Therefore, the concepts of these conventions are reflected into the state policy.

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

13. In addition to prohibiting discrimination of all forms against a person, the Constitution of Mongolia provides that the laws, decrees and other decisions of State bodies, and activities of all other organizations and citizens should be in full conformity with the Constitution.⁴ Therefore, the decisions and the policy documents adopted by the State Great Hural, the Government, and the organs of judicial power as well as other governmental bodies and officials of all levels should reflect the Constitutional concepts prohibiting discrimination of all forms.

14. Also sub-paragraph 5, paragraph 5 and article 20 of the Law on the Government of Mongolia provides⁵ that the Justice Minister shall review the legal grounds of any decisions issued by the governmental administrative body establishing administrative norms (universally binding norms). In 2010, the Government of Mongolia adopted “Procedures for Issuing Decisions Establishing Administrative Norms” by its Resolution No. 119. According to provision 2.3.3 of this procedure, a person drafting the decision should pay specific attention to whether the draft decision “contains any regulations that might limit human rights and freedoms, restrict the competition, create obstacles to economic, social and other activities, and establish any conditions for bureaucracy and corruption to occur”, and if the decision establishing universally binding norms does not comply with the Constitution and other laws and legislation, then the State central administrative body in charge of legal affairs will have a right to undertake measures to revoke the decision by sending conclusions and recommendations.

15. By the end of 2013, out of 3,393 resolutions and decisions establishing administrative norms registered with the Unified State Register, 946 resolutions and decisions are in still force. These include: 699 Ministers’ resolutions, 88 governors’ decisions, and 159 agency decisions.

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.

16. Mongolia continues to undertake measures to reflect and guarantee the provisions of the Constitution that prohibit discrimination of people based on national or ethnic origin, language, race, age, sex, social origin or status, wealth, occupation, post, religion, opinion

⁴ Paragraph 1 of article 70 of the Constitution of Mongolia.

⁵ Amendment made to the Law on the Government in 2008.

and education into other domestic laws and legislation. For example, the Law on Education/2002 was amended in 2006 to provide, “in obtaining education, citizens shall not be discriminated based on national or ethnic origin, language, race, sex, developmental characteristics, health, social origin or status, wealth, occupation, post, religion and opinion, and shall be provided with equal opportunities and conditions to study in their mother tongue”;⁶ the Law on the Election of the President of Mongolia/1993 was amended in 2009 to legislate, “Mongolian citizen of 18 years of age shall enjoy a right to vote without discrimination based on national or ethnic origin, language, race, sex, social origin or status, wealth, occupation or post, religion, opinion and education”;⁷ the Law on Public Service/2002 was amended in 2011 to prohibit, “discrimination based on national or ethnic origin, race, age, sex, social origin and status, wealth, occupation and post, religion, opinion, political or other public organizational affiliation of the citizen who satisfied the criteria for holding the core government post”;⁸ the Labour Law/1999 was amended in 2011 to state, “the establishment of discrimination, limitation, or privilege based on national or ethnic origin, race, sex, social origin or status, wealth, official post, education, religion, or opinion in labor relations is prohibited”.⁹ Consequently, all these laws were amended to include provisions prohibiting all forms of discrimination.

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

17. Paragraph 1 of article 86 of the Criminal Code legislates, “propaganda with a view of stirring up of national, racial or religious hatred between peoples, direct or indirect restriction of their rights by discrimination or establishing privileges shall be punishable by imprisonment for a term of 5 to 10 years”, while provision 3.3.3.4 of the Concept of National Security of Mongolia adopted by the Parliamentary Resolution No. 48 in 2010 provides, “take resolute actions against any development which discriminates against citizens on the basis of nationality, religion, faith, gender or belief, instigating favoritism to persons based on place of birth or violating human rights and freedoms, and consequently, disrupting national unity and social stability”.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

18. Mongolia, for the purposes of absolutely condemning racial segregation and apartheid, and undertaking to prevent, prohibit and eradicate all practices of this nature in territories under its jurisdiction, amended its 2008 Criminal Code to include a provision sanctioning genocide and crimes against humanity by stating, “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing of members of the group; causing grave bodily injuries to members of the group; imposing measures intended to prevent births within the group; forcibly

⁶ Sub-paragraph 4, paragraph 1 and article 5 of the Law on Education amended by the law dated 8 December, 2006.

⁷ Paragraph 3 of article 3 of the Law on the Election of the President of Mongolia revised by the law dated 16 January, 2009.

⁸ Paragraph 1 of article 16 of the Law on the Public Service amended by the law dated 2 February, 2011.

⁹ Paragraph 2 of article 7 of the Labour Law amended by the law dated 2 February, 2011.

transferring children of the group to another group or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part shall be punishable by imprisonment for a term of 20 to 25 years or the death penalty”.¹⁰

19. By the end of 2012, no cases have been registered in Mongolia related to genocide, apartheid, or racial segregation.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof.

20. As provided in the Criminal Code, Mongolia prohibits the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. In accordance with the adoption of the New Constitution, paragraph 1 of article 86 of the revised Criminal Code in 2002 provides, “propaganda with a view of stirring up of national, racial or religious hatred between peoples, direct or indirect restriction of their rights by discrimination or establishing privileges shall be punishable by imprisonment for a term of 5 up to 10 years”. According to the Criminal Code, crimes punishable by an imprisonment for more than 5 years up to 10 years are recognized as serious crimes. In addition, as mentioned earlier, the sanction imposing an “imprisonment for a term of 20 to 25 years or the death penalty” for a crime stated in the newly amended paragraph 1 of article 302 of 2008 Criminal Code, which prohibits acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, is considered to be a grave crime. This is an indication that Mongolia seriously approaches this issue.

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law.

21. As provided in the 2002 Advertisement Law, it is prohibited to advertise or broadcast to the public through mass media advertisements that use offensive language, comparisons and descriptions to denigrate national or ethnic origin, language, race, social origin or status, age, sex, occupation, education, religion and opinion.

22. For the purposes of prohibiting discrimination based on national or ethnic origin, language, race and other forms, and to promote the conceptual basis of the Constitution in this area, the above mentioned frequently used laws are being amended, and the newly

¹⁰ Article 302 of the Criminal Code.

adopted laws include provisions not recognizing or being intolerant to discrimination. For example, the Law on the Election of the Parliament (State Great Hural) adopted in 2011¹¹ and the Law on the Employment Promotion¹² include provisions prohibiting discrimination based on national or ethnic origin, language, race and other forms.

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

23. While provision 4 of the “Code of Conduct of the Government Administrative Official” adopted by the Mongolian Government Resolution No. 58 in 1999 did not specify the forms of discrimination by stating in general, “official in performing their duties shall not discriminate anyone...”, provision 5.3.2 of the “Code of Conduct of the Government Administrative Official” adopted by the Government Resolution No. 288 in 2010 specifies in detail that in rendering government services to citizens and the general public the official shall not discriminate based on national or ethnic origin, race, age, sex, social origin, wealth, occupation, post, religion, opinion, education, health status, and sexual orientation.

24. Article 16 of the Chapter on the “Terms and Procedures for Employment of the Core Government Officials” of the Law on Public Service prohibits the discrimination based on national or ethnic origin, race, sex, age, social origin and status, wealth, occupation and post, religion, opinion, political or other public organizational affiliation of the citizen, who satisfied the criteria for holding the core government post, and according to this legal provision Mongolian citizens enjoy a right to hold core government posts without any discrimination. For example, the latest study by the National Statistical Office in 2010 classifying the number and the national occupation of police workers, police officers and investigators out of total number of 6,420 officials there were 5,623 Khalkhas, 162 Kazakhs, 163 Durveds, 66 Buryats, 108 Bayads, 58 Darigangas, 36 Uriankhais, 67 Zakhchins, 9 Darkhads, 34 Torguuds, 47 Uulds, 10 Khotons, 15 Myangads, 3 Bargads, 2 Uzemchins, 9 Khotogoids, 3 Eljigens, and 3 Sartuuls.

25. As of 2013, no complaints in relation to the racial discrimination have been registered with the Public Service Council of Mongolia.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights.

26. Paragraph 1 of article 14 of the Constitution of Mongolia guarantees the principle of equality before the law by stating, “all persons lawfully residing within Mongolia are equal before the law and the Court.” This constitutional right is elaborated in detail in paragraph 1 of article 8 of the Law on Courts by stating, “every person in Mongolia shall be equal before the law and court irrespective of his/her nationality, language, race, age, sex, social origin and status, wealth, occupation or post, religion, opinion or education, or other

¹¹ Paragraph 1 of article 6 of the Election of the Parliament (State Great Hural) of Mongolia legislates, “an eligible voting citizen is entitled to participate in an election without being discriminated against due to nationality, ethnicity, language, race, gender, social origin and status, wealth, occupation, post, religion, opinion and education”.

¹² Sub-paragraph 1, paragraph 1 and article 4 of the Law on Employment Promotion upholds the principle stating, “non-discrimination of citizens based on national or ethnic origin, language, race, age, sex, health status, property, education, social origin or status, religion, and opinion”.

conditions, as well as the form of ownership of the business or organization”, which specifically mentions the form of discrimination, and promotes equality.

27. In addition, the above mentioned paragraph 2 of article 10 of the Law on Courts states, “persons who do not have command of Mongolian language with the help of translator or interpreter shall have a right to get introduced with all materials of the case, and to make a speech in court in their mother tongue”. Consequently, there are similar provisions in the Civil Procedure Code¹³ and the Criminal Procedure Code.¹⁴ In accordance with these provisions, if the persons participating in civil and criminal proceedings do not have command of Mongolian language then through his/her mother tongue or languages and scripts known to him/her or if mute or deaf then with the help of gestures and special signs and translator, interpreter shall be provided with the right to give testimony, to submit complaint, to make speech in court and to get introduced with all materials of the case. The Criminal Procedure Code depending on the specific circumstances provides that the participation of defense counsel in an inquiry, investigation and judicial examination of a criminal case of a suspect, accused or defendant shall be obligatory, which is also applicable to persons who do not have command of Mongolian language.¹⁵ These legal provisions are also applicable to foreign citizens.

28. In addition, paragraph 2 of article 7 of the revised Law on the Legal Status of Foreign Citizens (2010) legislates and guarantees the rights and obligations of foreign citizens, and in cases other than those limited by the law foreign citizens have the same rights and obligations as the citizens of Mongolia. Also according to the Constitution of Mongolia the international treaties to which Mongolia is a party shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession. Moreover, paragraph 2 of article 2 of the Law on the Legal Status of Foreign Citizens provides that international treaty shall prevail over this Law.

29. In consideration of the increasing number of foreign citizens crossing the borders of Mongolia (911,109 in 2007, 946,047 in 2008, 963,474 in 2009, 1,235,896 in 2010, 1,249,259 in 2011, and 1,249,747 in 2012) paragraph 1 of article 21 of the revised Law on the Legal Status of Foreign Citizens provides that foreign citizens who are holders of valid foreign passports or equivalent legal documents have a right to enter Mongolia after obtaining the requisite visa from the competent authority of Mongolia.

30. Also paragraph 4 of article 27 of the same Law states, “the number of foreign citizens residing in Mongolia for private purpose may not exceed 3 percent of total citizens of Mongolia and among them nationals of one country may be up to 1 percent”, which has increased the percentage threshold, set in the previous 1993 Law. This threshold restriction is only applicable to the cases of long term residence of foreign citizens for private purposes in Mongolia.

31. Mongolia closely cooperates with the United Nations High Commissioner for Refugees, and the Working Group has been established following the joint resolution No. 127/55 by the Minister for Justice and Internal Affairs, and the Minister of Foreign Affairs in 2004 mandated with a task of issuing recommendations and proposals on the accession of Mongolia to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Consequently, the issue related to the ratification of the Convention and its Protocol was studied, and submitted to the National Security Council for the issuance of Recommendations after its discussion during 2005 and 2008 Cabinet meetings.

¹³ Paragraph 2 of article 7 of the Civil Procedure Code.

¹⁴ Paragraph 2 of article 19 of the Criminal Procedure Code.

¹⁵ Sub-paragraph 3, paragraph 1 and article 40 of the Criminal Procedure Code amended according to the Law dated 9 August, 2007.

32. Sub-paragraph 3, paragraph 3 and article 7 of the revised Law on the Legal Status of Foreign Citizens provides that the foreign citizens shall have the right to seek political asylum, while paragraph 1 of article 9 of the same Law states that the President of Mongolia shall grant the right of asylum to a foreign citizen, who is persecuted for their conviction that is honored in Mongolia.

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State

33. Paragraph 18 of article 16 of the Constitution provides the right to freedom of movement within the country and freedom to choose one's temporary or permanent place of residence.

34. In recent years, due to the social and economic situation in the country there is an increase in the migration of citizens from rural areas into settled areas including the migration of citizens into the capital city.

35. From 2006 until late 2012 in total 287.4 thousand citizens migrated at the national level, and during this period 1,787 citizens migrated from Bayan-Ulgii aimag.

36. Even though, as provided in the Constitution, the right to travel and reside abroad may be limited exclusively by law in order to ensure the security of the nation and population and to maintain public order,¹⁶ it should be noted that there were no instances of using this provision and limiting the people's freedom of movement.

37. Employment of foreign citizens, and their right to economic activity in Mongolia are not prohibited by law, and currently, the majority or 67.5 percent of foreign citizens residing in Mongolia are employed in a variety of private sector organizations. Article 30 of the Law on the Legal Status of Foreign Citizens provides that the working permit shall be issued by the state administrative body in charge of this issue and its authorized organizations, and the granting of such a permit may be issued not only to foreign citizens with a residence permit but also to their family members.

(ii) The right to leave any country, including one's own, and to return to one's country

38. As provided in the above provision of the Constitution, citizens of Mongolia have a right to travel or reside abroad for private purposes, and to return to home country anytime. The right of citizens to travel or reside abroad for private purposes is regulated according to the Law on Travel for Private Purposes and Immigration of Citizens of Mongolia Abroad/1993. Article 5 of this Law outlines the grounds and the time period for suspending the right of citizens to travel abroad for private purposes and to immigrate, and these limitations are not related to the citizen's national or ethnic origin, language, race, sex, and social status.¹⁷

39. In total 1,294,199 citizens of Mongolia in 2010, 1,548,191 citizens in 2011, and 1,631,452 citizens in 2012 travelled abroad for private and official purposes.

¹⁶ Paragraph 18 of article 16 of the Constitution of Mongolia.

¹⁷ Paragraphs 1-5 of article 5 of the Law on Travel for Private Purposes and Immigration of Citizens of Mongolia Abroad.

(iii) The right to nationality

40. According to the Constitution of Mongolia, it is prohibited to deprive citizens of Mongolian citizenship, exile and extradite them,¹⁸ while the grounds and procedures of citizenship, acquisition and cessation of citizenship shall be only regulated by law.¹⁹ In addition, as provided in the Constitution, the President shall exercise the prerogative right to decide matters related to granting and withdrawing Mongolian citizenship.²⁰ The Citizenship Law/1995 regulates in detail relations pertaining to Mongolian citizenship, acquisition, restoration and cessation of citizenship.

41. According to the Citizenship Law the state central administrative body in charge of citizenship matters shall receive the applications for acquisition, restitution or withdrawal of Mongolian citizenship, make appropriate recommendations, and introduce them along with the official proposal to the Prime Minister within one month, and submit it to the President of Mongolia for consideration.²¹

42. From the information by the Office of Immigration, Naturalization and Foreign Citizens 30,616 Kazakhs in the period of 1994-2006 and 18,595 Kazakhs in the period of 2007-2011 renounced their Mongolian citizenship in favor of acquiring the citizenship of the Republic of Kazakhstan. However, in the period of 2006-2011 in total 695 Kazakhs have restored their Mongolian citizenship. In 2012, 29 Kazakhs abandoned their Mongolian citizenship in favor of acquiring the citizenship of the Republic of Kazakhstan, while 21 Kazakhs restored their Mongolian citizenship. The main reason behind the movement of citizens of Kazakh ethnicity and the change in their citizenship is related to the fact that the Republic of Kazakhstan conducts an open policy in granting its citizenship to people of Kazakh ethnic origin, and it further provides financial benefits and allowances.

43. According to the statistical data, each year there is a tendency for constant increase in the number of foreign citizens residing in Mongolia for private and official purposes. For example, the number of foreign citizens residing in Mongolia increased up to 24,654 in 2009, up to 26,072 in 2010, up to 36,095 in 2011, and up to 27,086 in 2012.

44. As a result, the revised version of the Law of Mongolia on the Legal Status of Foreign Citizens was adopted in 2010. This Law regulates in detail the issuance of visas to foreign citizens and stateless persons, procedures concerning the entry, exit, transit and residence of foreign visitors and stateless persons in Mongolia, their rights and responsibilities, improvement of the system of monitoring, registration, and accountability, and by specifying the full powers and functions of relevant authorities and officials it aims to eliminate any gaps and overlaps. Also by formulating and legislating separately the rights and duties of foreign nationals, and their prohibited activities this Law clarifies the legal status of foreign citizens.

45. Paragraph 1 of article 7 of the above Law provides, “in order to ensure the sovereignty of Mongolia, national security, and public order, the Government of Mongolia may enact any legislation it considers necessary restricting the rights and freedoms of foreign citizens other than fundamental human rights”, while paragraph 2 of article 7 of the same Law states, “foreign citizens shall have rights and freedoms, and duty to abide equal to Mongolian citizens in the conditions except stated in article 7.1. of this law”, which is an indication that foreign citizens are not discriminated against.

¹⁸ Paragraph 2 of article 12 of the Constitution of Mongolia; paragraph 5 of article 3 of the Citizenship Law.

¹⁹ Paragraph 1 of article 12 of the Constitution of Mongolia.

²⁰ Paragraph 9 of article 33 of the Constitution of Mongolia.

²¹ Paragraph 1 of article 20 of the Citizenship Law.

46. Article 8 of the same Law legislates the prohibited activities of foreign citizens on the territory of Mongolia. These include the prohibitions of foreign nationals to act in a way which is contrary to the interests of Mongolia, the rights and freedoms of Mongolian citizens or other human rights, and it further limits to a certain extent their participation in internal affairs of the country.

47. On the other hand, paragraph 1 of article 6 of the Law of Mongolia on the Legal Status of Foreign Citizens enacts, “in establishing the rights and duties of foreign citizens residing in the territory of Mongolia, Mongolia shall adhere to the principle of reciprocity with the country of which those persons are citizens”, which guarantees the determination of the legal status of foreign citizens in compliance with the bilateral agreements, if such agreements exist. In practice because such types of bilateral agreements provide more opportunities and beneficial conditions exceeding those outlined in the law foreign citizens enjoy rights and freedoms recognized by international legal norms while in residence in Mongolia.

(iv) The right to marriage and choice of spouse

48. Constitution of Mongolia provides that men and women shall have equal right in political, economic, social, cultural fields and in family affairs, as well as for the marriage to be based on the equality and mutual consent of the spouses.²²

49. Marriage and family affairs are regulated in detail by the Family Law (1999), which also provides that the marriage shall be based on the equality and mutual consent of the spouses.²³ In addition, it prohibits the discrimination of citizens getting married on the basis of nationality, language, race, and religion.²⁴ Also paragraph 6 of article 4 of this Law states, “If an international treaty to which Mongolia is a party does not provide otherwise than this Law, then the foreign citizens and stateless persons in Mongolia may exercise same rights and obligations in family relations as Mongolian citizens”, which guarantees the right outlined in the Constitution.

50. From the data of the General Authority for State Registration on the marital status registration of Mongolian citizens with foreign citizens it can be seen that for the period of 2006-2011 there were 3,745 Mongolian citizens, who registered their marriage to foreign citizens. Also according to the marital status registration of foreign citizens for the period of 2006-2010 there were 442 citizens, who registered their divorce from foreign citizens.

However, in 2012, 378 citizens of Mongolia married to foreign citizens, while 87 citizens of Mongolia divorced from their foreign spouses.

(v) The right to own property alone as well as in association with others

51. In Mongolia the state recognizes all forms of both public and private property and protects the right of an individual for ownership by law.²⁵ Constitution of Mongolia declares the right of citizens to fair acquisition, possession and ownership of moveable and immovable property,²⁶ and, consequently, the laws on economic, social, cultural, and other relations coordinate in detail legal relations on possession, ownership, and protection of private property, its use, and access to benefits. The Constitution also prohibits the illegal confiscation and requisitioning of the private property of citizens, and provides that if the

²² Paragraph 11 of article 16 of the Constitution of Mongolia.

²³ Paragraph 1 of article 4 of the Family Law.

²⁴ Paragraph 2 of article 4 of the Family Law.

²⁵ Paragraph 2 of article 5 of the Constitution of Mongolia.

²⁶ Paragraph 3 of article 16 of the Constitution of Mongolia.

state and its bodies appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment.²⁷ This provision is equally applicable to all citizens of Mongolia as well as foreign citizens lawfully residing in Mongolia. Forms of private property may be possessed by individuals solely or jointly with others, and the right to ownership can only be limited according to the provisions outlined by law.

52. Relations pertaining to property and the right to ownership are regulated by the newly revised Civil Code/2002/, and the relations on the right to ownership shall be based on the principle of ensuring equality and autonomy of participants to the civil law relations, and the sanctity of their property.²⁸ A court shall not apply laws which violate the property relations and the right to ownership outlined in the Constitution,²⁹ and any participant of the civil law relations (Mongolian and foreign citizens, and individuals without a citizenship)³⁰ shall have a right to restore violated rights, and to court protection.³¹

(vi) The right to inherit

53. In addition to the constitutional right of citizens to fair acquisition, possession and ownership of moveable and immoveable property, citizens also enjoy the right to transfer the ownership of their property to others, and to inherit from others.³²

54. The Civil Code regulates in detail inheritance related relations pertaining to inheritance rights and obligations, the protection of inheritance, the inheritance under testament and termination of the testament.³³

(vii) The right to freedom of thought, conscience and religion

55. As provided in the Constitution, all citizens have a right to freedom of conscience and religion,³⁴ as well as the freedom of thought and expression.³⁵ In addition, the Constitution states that the state shall respect religions and religions shall honor the state, while it prohibits the state institutions from engaging in religious activities and the religious institutions in pursuing political activities.³⁶

56. The Law on the Relationships between the State and the Monastery provides the guarantees of citizens' right to freedom of conscience and religion, as declared by the Constitution of Mongolia, and further regulates the relations between the state and the monastery. This Law prohibits oppression or restriction of citizen's right to freedom of religion, discrimination, abuse, and conduct fragmentation activities based on religious differences and the freedom of religion.

57. 2008 Criminal Code includes a provision on the criminalization of the act that includes discrimination, use of force or threat with such, oppression or restriction of one's rights in other forms on the religious ground in Mongolia.³⁷

²⁷ Paragraph 3 of article 16 of the Constitution of Mongolia.

²⁸ Paragraph 2 of article 1 of the Civil Code.

²⁹ Paragraph 2 of article 3 of the Civil Code.

³⁰ Paragraph 2 of article 7 of the Civil Code.

³¹ Paragraph 2 of article 1 of the Civil Code.

³² Paragraph 3 of article 16 of the Constitution of Mongolia.

³³ Articles 515-538 of Part V of the Civil Code(Inheritance).

³⁴ Paragraph 15 of article 16 of the Constitution of Mongolia.

³⁵ Paragraph 16 of article 16 of the Constitution of Mongolia.

³⁶ Article 9 of the Constitution of Mongolia.

³⁷ Paragraph 1 of article 143 of the Criminal Code.

58. The Law on the Relationships between the State and the Monastery regulates the relations of monasteries, and prohibits the state institutions from engaging in religious activities as well as it provides conditions for variety of religious flows to enter Mongolia. At present, in total 720 registered religious organizations of Buddhist, Christian, Islamic, Bahaist, Shamanist, and Moonist religions conduct their operations in Mongolia, of which over 50 percent are Buddhist and nearly 40 percent are Christian.

(viii) The right to freedom of opinion and expression

59. Mongolia respects the right of its citizens to freedom of expression, the right to obtain information, the right to inform and impart their views. The Constitution guarantees the right of citizens to freedom of thought, and its free expression,³⁸ and it prohibits discrimination and persecution of a person for joining a political party or other public organization or for being a member of such party or organization.³⁹

60. In accordance with 2005 Law on Political Parties it is forbidden to discriminate, intimidate, calumniate, offend and oppress someone because of his/her membership of party,⁴⁰ which guarantees the right of citizens to hold his/her chosen political view. According to a Criminal Code the violation of this right entails the imposition of a criminal liability.⁴¹

(ix) The right to freedom of peaceful assembly and association

61. As provided in paragraph 10 of article 16 of the Constitution of Mongolia citizens enjoy the right to form a party or other public organizations, and to unite voluntarily in associations according to social and personal interests, and opinion. Also paragraph 16 of the same article provides that citizens have a right to peaceful demonstration and meetings.

62. As provided in paragraph 1 of article 4 of the Law on Demonstrations and Meetings (1993) citizens of Mongolia, state registered political parties, and the non-governmental organizations have a right to organize demonstrations and meetings, and unless otherwise provided in international treaties to which Mongolia is a party, foreign citizens and stateless persons have a right to participate in demonstrations and meetings that are organized in compliance with the laws and legislation of Mongolia.

63. It is forbidden to establish a party with the purpose to offend authority, independence of Mongolia, to scatter a national unity, to take an authority of the state unconstitutionally, to usurp, to confuse, intimidate the masses, to commit murder, to discriminate on the basis of national origin or race, to organize a campaign against independence and territorial integrity of other countries, and to establish religious, military and fascist party.⁴²

64. Currently, 21 state registered parties are conducting their operations in Mongolia.

³⁸ Paragraph 16 of article 16 of the Constitution of Mongolia.

³⁹ Paragraph 10 of article 16 of the Constitution of Mongolia.

⁴⁰ Paragraph 3 of article 3 of the Law on Political Parties.

⁴¹ Paragraph 1 of article 134 of the Criminal Code.

⁴² Paragraph 2 of article 4 of the Law on the Political Parties.

(e) *Economic, social and cultural rights, in particular:*⁴³

(i) *The rights to work and to free choice of employment*

65. Mongolia does not have legal provisions that create discrimination, limitation, or privilege in the enjoyment of equal rights and opportunity in occupation and employment related issues based on national or ethnic origin, race, age, sex, social origin or status, wealth, religion, or opinion. The Labour Law adopted in 1999 was amended in 2011, whereby discrimination, setting limitations or privileges in labor relations based on national or ethnic origin, race, age, sex, social origin or status, wealth, religion, or opinion is prohibited.⁴⁴ Also according to this Law, unless related to work or duty to be performed, when recruiting an employee, no questions pertaining to the private life, opinion, marital status, political party membership, religious beliefs, or pregnancy are allowed.⁴⁵

66. On the other hand, despite the fact that some employers include age limits, sex, height, and shape as criteria for applicants, when placing vacancy announcements in mass media, which are viewed by the general public as discriminatory, it is impossible to consider these issues as the discrimination of citizens based on national or ethnic origin, language or race. Certain measures were implemented to improve the legal environment for the purposes of standardization of occupational safety, and to prevent the infringement of human rights, whereby the Law on Labour Safety and Hygiene was adopted by the State Great Hural on 12 May, 2008.

(ii) *The right to form and join trade unions*

67. The right to establish trade unions, to protect legal rights and interests by the way of making agreements on the basis of association into trade unions is guaranteed by the Law on the Rights of Trade Unions and the Labour Law. These laws do not contain any provisions that limit the right of certain groups of workers to associate in trade unions and make collective agreements. However, the Law on Public Service states that public servants (administrative and special officials) are prohibited to participate in activities of political, non-government and religious organizations with regard to the issues not related to their official duties, as well as to participate in planning, organization and participation in other activities such as strikes or activities directed to disruption of normal activities of public organizations. It is related to the fact that common duties and responsibilities of public servants, their social guarantees are regulated specifically by the Law on Public Service.

68. Citizens are entitled to join a trade union without a prior permission, solely on a voluntary basis, without any discrimination whatsoever to exercise their right to work and defend their legitimate interests concerned.

69. Joining or leaving trade union shall not be forced. Restrictions of citizens' rights and freedom, discrimination against them with regards to membership or non-membership in trade unions are prohibited.⁴⁶

70. As of 2013, the Confederation of Mongolian Trade Unions had 36 member organizations, out of which 14 were vocational training organizations and 22 were territorial trade union associations. 2,228 primary level trade union committees operate,

⁴³ Information on the implementation of this article of the Convention (article 5 (e)) can be found in the Fourth National Report of Mongolia on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

⁴⁴ Paragraph 2 of article 7 of the Labour Law, as amended on 2 February, 2011.

⁴⁵ Paragraph 1 of article 7 of the Labour Law.

⁴⁶ Article 3 of the Law on the Rights of Trade Unions.

which in total encompass 211,410 members. With the resurgence of national industries and increase in jobs there is a growth in the number of people joining trade union organizations. For example, in 2010 newly 29,387 people became members of this organization, while 1,242 people terminated their membership.

71. If there are several trade unions at the national, regional or administrative territorial unit level, or in a specified economic sector or profession, or in the business entity or organization, then they, according to the Labor Law, must participate in the negotiations and establishment of a collective contract or agreement by appointing common representatives from the members.⁴⁷

(iii) The right to housing

72. Paragraph 3 of article 16 of the Constitution states, “the right to fair acquisition, possession and ownership of moveable and immoveable property. Illegal confiscation and requisitioning of the private property of citizens shall be prohibited. If the state and its bodies appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment”.

73. Civil Code regulates relations related to the right to possess an apartment, the right to own an apartment or an immoveable property. The right of single ownership of an apartment is created on the basis of law or transaction. Transaction creating the right of single ownership of an apartment shall be certified by notary and registered with the state registration. All owners shall be entitled to have the apartment/room and other area – objects of single ownership be registered with the State Real Estate Registration Office, as provided by law (paragraph 3 of article 145 of the Civil Code).

(iv) The right to public health, medical care, social security and social services

74. In Mongolia the right to health has its roots from the Universal Declaration of Human Rights. Paragraph 2 of article 16 of the Constitution of Mongolia states, “the right to healthy and safe environment, and to be protected against environmental pollution and ecological imbalance”, while its paragraph 6 of article 16 provides, “the right to the protection of health and to medical care. The procedure and conditions of free medical aid shall be defined by law”.

75. In recent years, within the framework of actions to upgrade the diagnostic imaging and medical equipment, and to introduce progressive techniques and technologies to the health sector for the period of 2007-2008, 90 percent of x-ray machines, and 60 percent of endoscopes in clinical and specialized hospitals as well as the provincial and district hospitals were upgraded, while, in 2009, 2.3 billion tugrugs of investments were made into the modernization of diagnostic and medical equipment at the Mongolian National Center for Mental Health, State Central Second Hospital, Infant Central Sanatorium and the National Pathology Center.

76. The Government of Mongolia adopted a “National Program to Raise the Living Standards of Citizens of Tsaatan Minority Group” in 2007 in order to provide for the living standards of Tsaatan minority group, which reflects in a comprehensive manner specific initiatives to increase the number of heads of reindeers, and to improve the health, employment and education of Tsaatan minority group.

⁴⁷ Paragraph 5 of article 11 of the Labour Law.

77. Citizens of Mongolia have a sacred duty to work, protect his/her health, bring up and educate his/her children and to protect nature and the environment in upholding the justice and human dignity.⁴⁸

(v) The right to education and training

78. In relation to the right to education paragraph 2 of article 14 of the Constitution of Mongolia states, “no person shall be discriminated against on the basis of national or ethnic origin, language, race, age, sex, social origin and status, wealth, occupation and post, religion, opinion or education. Everyone shall have the right to act as a legal person”. Also paragraph 7 of article 16 provides, “the right to education. The state shall provide basic general education free of charge. Citizens may establish and operate private schools if these meet the requirements of the state”, which does not affect the right of national minorities of other tongues to use their native languages in education, communication and in the pursuit of cultural, artistic and scientific activities.⁴⁹

79. The legal documents pertaining to education include the Law on Education (2002), the Law on General Education (2002), the Law on Vocational Education and Training (2009), and the Law on Higher Education (2002).

80. In 2012, the Ministry of Education, Culture and Science registered in total 755 schools including 113 universities, colleges and foreign language schools (Russian, English, Turkish, German, International School, Chinese, etc.). Out of these there are 650 public and 105 private schools.

81. Students enjoy the right to select and decide on the language to be taught at schools and universities. Moreover, according to paragraph 14 of article 5 of the Law on the Official State Language if the majority of students belong to national minorities then they shall be taught in the minority language.

82. Ministry of Justice and Internal Affairs has signed and implemented a two-year agreement with Legal Assistance Center of Bayan-Ulgii aimaig on 1 November, 2010, for the purposes of implementing a special program aimed at providing legal information to citizens belonging to Kazakh minority group in Kazakh language. The goal of this program is to make the legal knowledge, information, laws and legislation accessible to Kazakh citizens by imparting this information in Kazakh language, and consequently, support their legal education. Within the framework of this work 13 Mongolian laws of utmost importance have been translated into Kazakh language, as well as the legal education programs have been broadcasted on local television and radio. Also legal reference materials are prepared and published in Kazakh language on the website of www.mongolianislam.mn.

83. Government of Mongolia pays special attention to the education of Kazakh children and adopted “Measures to Improve the Quality of Educational Services to Kazakh Children” in 2010. This program pays a lot of attention to the education of children of national ethnic minority population, and reflects such issues as the establishment of a sector overseeing the education in Kazakh language at the national level, retraining of teachers, improvement of the quality of education, and introduction of bilingual education. Since 2011, “Kazakh Children’s Educational Sector” operates at the Institute of Education, which is solely responsible for overseeing the education of Kazakh children. This sector is established according to 2010 Government resolution No. 66 “On the Measures to Improve the Quality of Educational Services to Kazakh Children”, and the “Action Plan for the

⁴⁸ Paragraph 2 of article 17 of the Constitution of Mongolia.

⁴⁹ Article 8 of the Constitution of Mongolia.

Improvement of the Quality of Bayan-Ulgii Aimag's Educational Services" adopted by 2010 resolution No. 106 of the Minister of Education, Culture and Science. The Institute is developing a draft curriculum of general education schools that conduct teachings in Kazakh and Tuva languages based on the study to determine the number and location of pre-school and school-aged children in Bayan-Ulgii aimag according to their ethnic group affiliations. This task espouses a goal of developing a research based Kazakh school curriculum in compliance with the bilingual educational policy of Kazakh schools, to create opportunities to conduct bilingual teaching, and to determine appropriate hours for quality teaching of Kazakh language and the state official language to Kazakh children.

(vi) The right to equal participation in cultural activities

84. Paragraph 8 of article 16 of the Constitution guarantees the social equality, and legislates the protection of these rights by law. Specifically it states, "the right to engage in creative work in cultural, artistic and scientific fields and to the benefit thereof. Copyrights and patents shall be protected by law".

85. Mongolia pays special attention in creating infrastructure to support the universal participation in cultural events such as the cultural centers, museums, libraries, theaters, movie theaters, and to ensure that people irrespective of their residence in urban or rural area share opportunities and conditions to access anywhere cultural services in order to promote citizens' right to culture.

86. According to the study by the Ministry of Education, Culture and Science in total 1,500 libraries operate across the country, out of which here were 344 public libraries, 638 university libraries, 45 vocational training center libraries, 638 school libraries, 67 organizational and business entity libraries, 36 military unit libraries, and 48 prison libraries. In total 31 cultural centers conduct their operations at the national level, and these cultural centers mostly operate in aimags and capital city districts.

(f) The right of access to any place or service intended for use by the general public

87. The public transportation operating bodies serve tickets to all people aged 16-55 years irrespective of their nationality or citizenship.

88. Mongolian citizens, foreign citizens, and stateless people have equal right to access places of public service such as the restaurants, cafes, and theaters.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

89. The 1992 Constitution declares that Mongolia has a parliamentary form of government. State power is divided into legislative, executive and judicial power. The State Great Hural is the highest organ of state power, and the Government is the highest executive body of the state. Judicial power is vested exclusively in courts, and the judicial system consists of the Supreme Court, aimag and capital city courts, soum, intersoum and district courts. In addition, the activities and decisions of the specialized courts such as criminal, civil and administrative courts shall be under the supervision of the Supreme Court. The Constitutional Tssets is an organ exercising supreme supervision over the

implementation of the Constitution, making judgment on the violation of its provisions, and resolving constitutional disputes.

90. Out of more than 700 complaints received by the Constitutional Tsets since its establishment in 1992, 300 complaints were related to infringement of rights. The Constitutional Tsets has reviewed 10 cases related to concrete violations of rights, as provided in the Constitution, and it has issued a final judgment. These resolved cases do not include cases related to racial discrimination.

91. The right to appeal to the court in cases of infringement of rights is guaranteed to everyone by the Constitution. Paragraph 14 of article 16 of the Constitution provides, “right to appeal to the court to protect his/her right if he/she considers that the rights or freedoms as spelt out by the Mongolian law or an international treaty have been violated; be compensated for the damage illegally caused by others; not to testify against himself/herself, his/her family, or parents and children; self-defense; receive legal assistance; have evidence examined; a fair trial; be tried in his/her presence; appeal against a court judgment, seek pardon. It shall be prohibited to compel a citizen to testify against him or herself. Every person shall be presumed innocent until proved guilty by a court by due process of law. It shall be prohibited to impose the charges or convictions of a person on his/her family members or relatives”.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

92. Such offices as the National Human Rights Commission of Mongolia, the National Authority for Children, a government implementing agency, operate in the structure of the highest organ of state power and the highest executive body of the state (Parliament and the Government). The National Council for Human Rights, the National Council on Gender Equality, the National Council for Children, the Tripartite National Committee on Labor and Social Consensus headed by the Prime Minister and other high officials at the level of Ministers are among organizations that operate to protect rights and interests of citizens.

93. Actions are being carried out to raise awareness on the protection and promotion of human rights, including the rights of vulnerable and special groups, such as distribution of handouts and printed materials, and organization of trainings among public servants, and people in management positions.

IV. Conclusion

94. At the national level, there were no complaints raised in respect to racial discrimination to the National Human Rights Commission of Mongolia as well as the police departments. The Government of Mongolia is making significant efforts to implement and organize actions in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination.