

MONGOLIA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Mongolia is a multiparty parliamentary democracy. In the June parliamentary elections, which observers considered largely free and fair, the Democratic Party won a plurality. This was the first election which employed electronic balloting machines. Prime Minister and Democratic Party leader Norov Altankhuyag formed a coalition government with the Justice Coalition (composed of the Mongolian People's Revolutionary Party (MPRP) and the Mongolian National Democratic Party), and the Civil Will-Green Party. The Justice Coalition's MPRP is led by former President Nambaryn Enkhbayar, who was sentenced on appeal in December to serve two-and-a-half years in prison on corruption charges. Security forces continued to report to civilian authorities.

The three most significant human rights problems were police abuse of detainees, uneven enforcement of the law and corruption within the judicial system, and a lack of transparency in government affairs. While the law provides for protection of basic human rights, there was a disconnect between laws, regulations, and actual practice.

Other human rights problems included poor conditions in detention centers, arbitrary arrests, government interference with the media, religious discrimination (including continued refusal by some provincial governments to register Christian churches), unlawful denial of exit visas and immigration holds of foreign citizens, opaque and complicated procedures for stateless persons to gain citizenship, lack of transparency in government affairs, inadequate measures to counter domestic violence against women, trafficking in persons, discrimination against persons with disabilities, discrimination against ethnic minorities, and violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons.

The government took few steps to punish officials who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices. However, sources reported that police, especially in rural areas, occasionally abused prisoners and detainees. Human rights groups, in consultation with law enforcement and judicial authorities, reported that the use of unnecessary force and torture, particularly to obtain confessions, was a serious problem. Nongovernmental organizations (NGOs) claimed guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. NGOs stated that some inmates were beaten and deprived of visitation rights in response to infractions committed in detention. According to an NGO working closely with the prison system, authorities beat prisoners who attempted suicide and refused them basic amenities and visitation rights.

During the year the Office of the State Prosecutor General's Special Investigative Unit (SIU) received 67 complaints against officials accused of torture. Of these, SIU dismissed 58 for failure to comply with the relevant code's definition of torture. According to Amnesty International (AI), SIU interprets the code as applying only to investigators and exempting prosecutors and prison officials. Four of the remaining torture complaints were under investigation by the SIU, while five were transferred to other departments. Additionally, the General Executive Agency of Court Decision (GEACD) reported five complaints of torture and coercion against correctional facility guards. As a result, two guards received 15 percent reductions in wages for two months, one guard received a warning sanction, one guard was demoted, and another guard was dismissed. Complaints reported by officials and NGOs also concerned coercion and threats, including threats from police to investigate family members if a confession was not forthcoming.

Former General Intelligence Agency officer Bat Khurts, implicated in the 2003 kidnapping of Mongolian national Damiran Enkhbat in France, was appointed Deputy Director of the Independent Agency against Corruption after being released from German custody in September 2011. A working group set up by the Parliamentary Sub-Committee on Human Rights continued to investigate

allegations of torture and other mistreatment made by Damiran Enkhbat and his lawyers.

Prison and Detention Center Conditions

According to AI and the Prison Fellowship of Mongolia, an NGO dedicated to prisoner issues, conditions in prisons remained poor but improved during the year. The GEACD reported 12 deaths in prisons during the year and no deaths in detention facilities. Correctional officials routinely released terminally ill patients shortly before death, which NGOs noted contributed, in part, to underestimates of the number of deaths in prisons and detention centers.

Physical Conditions: Prison and detention center conditions varied based on the facility. The pretrial detention facility opened in 2011, Number 461 Songolon Detention Center, had natural light and was well ventilated. The facility had a significantly lower rate of tuberculosis than the previous detention facility. AI reported, however, that it lacked provisions to ensure privacy for meetings with lawyers.

In contrast to new facilities and renovated prisons, sources reported that in other pretrial detention centers and administrative facilities detainees lived in squalid conditions due to overcrowding and poor ventilation. Although prisoners had access to potable water in all detention facilities, officials reported they lacked the resources to provide adequate water, food, hygiene, bedding, ventilation, and bathing facilities. Conditions in police-operated detoxification centers were equally poor. Inebriated individuals were detained in overcrowded holding cells for up to 24 hours.

The GEACD reported there were 7,114 prisoners serving sentences across the country, of whom 79 were women and 44 were juveniles. UN officials reported children and adults often were not separated in police detention facilities and pretrial detainees were held with convicted prisoners. Conditions for men and women were similar. There is one prison facility in Tuv Province exclusively for nonviolent offenders. Other detention facilities continued to house violent and nonviolent offenders together.

Administration: NGOs reported adequate recordkeeping of prisoners. The GEACD reported that ombudsmen were not able to serve on behalf of prisoners and detainees in responding to prisoner complaints. Officials did not take steps to use alternative sentencing for nonviolent offenders, although good behavior was a

consideration for early probation. Officials permitted prisoners to work outside prison to reduce sentences and earn money, with the money sometimes going to the victims of a convict's crime. NGOs promoting prisoner rights reported there was little transparency in managing prisoner wages.

Prisoners and detainees had reasonable access to visitors and officials permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigations, although AI stated that in many cases this process was significantly flawed and failed to address legitimate complaints. The Prosecutor's Office and State Specialized Inspection Agency monitored prison and detention center conditions.

Monitoring: The government allowed access to independent nongovernmental observers, but the access was generally limited to low- and medium-security facilities. However, even at these facilities, visitation requests reportedly had to be submitted in advance and access was often limited.

Improvements: The government continued efforts to improve overall conditions in prisons and detention centers, renovating and expanding existing facilities and devoting greater resources to prisoner care. NGOs and government officials reported that prison psychologists and social workers were better trained than in the past and that there was a higher ratio of social workers to prisoners (approximately one social worker for every 100 inmates) than in previous years. Additionally, the law requires video and voice recording equipment in interrogation rooms, pretrial detention centers, and prisons to help prevent abuses. Nevertheless, AI reported that there were insufficient safeguards or procedures in place to monitor and prevent abuse.

During former president Nambaryn Enkhbayar's detention while awaiting trial on corruption and fraud charges, supporters, family members, and lawyers alleged abuses, including denial of medical treatment, access to family members, and legal counsel. Human rights organizations monitoring Enkhbayar's detention raised concerns regarding these issues as well as police authorities' force-feeding Enkhbayar during his 10-day hunger strike in May. According to government officials and others, authorities handled the hunger strike according to the law.

Following Enkhbayar's August 2 conviction and sentencing, he was transferred from a high-security prison to Second Central Clinic due to his worsening health. (Second Clinic is managed by the Ministry of Health and dedicated to treating high-ranking officials). Enkhbayar remained at Second Clinic until after his

Supreme Court appeal trial in December, at which time he was transferred to Prison Unit #401, where he was being held in a clinic cell at year's end. Enkhbayar's doctors and members of his MPRP party argued that he should be kept in Second Central Clinic due to his poor health. Prison Unit # 401 contains the GEACD's main facility for intensive treatment of prisoners with serious illnesses.

The Prison Fellowship of Mongolia reported that authorities' attitudes to those awaiting trial and those convicted have changed. As a result, treatment of detainees awaiting trial has become more considerate and circumspect as prison officials realize they may be innocent.

d. Arbitrary Arrest or Detention

The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention continued to occur.

Role of the Police and Security Apparatus

The armed forces, which report directly to the Ministry of Defense, are responsible for national defense, but also assist internal security forces in providing domestic emergency assistance and disaster relief. The national police and the Border Force, which operate under the Ministry of Justice, are responsible for internal security. The General Intelligence Agency, whose civilian head reports directly to the prime minister, assists the aforementioned forces with internal security as well as foreign intelligence collection and operations.

Civilian authorities largely maintained control over both external and internal security forces, yet mechanisms to investigate police abuses remained inadequate. There were numerous instances reported during the year of the security forces abusing suspects and prisoners with impunity. Complaints against the police, prosecutors, and members of the judiciary were referred to the SIU. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials. During the year, the SIU received 420 complaints against law enforcement officials, opened cases on 169 of these complaints, rejected 51, and transferred 23 to other agencies. Cases brought to trial by the SIU resulted in 58 convictions and seven dismissals. Twenty cases remained under investigation at year's end. This was a significant increase in the volume of corruption cases from the previous

year. There were no major government actions, including training, to reform the security forces during the year.

It was widely reported that ultranationalist groups have been able to act with some measure of impunity due to police complacency and unwillingness to apprehend offenders. Observers reported that such groups are more active during election times. In the past, ultranationalists have targeted LGBT persons, Chinese, and Koreans with threats, violence, and the extortion of protection money. There were relatively few reports of such incidents during the reporting period from either NGOs or law enforcement, however.

Arrest Procedures and Treatment While in Detention

A judge-issued warrant is required to arrest a suspect. A “pressing circumstances” exception under the law allows police to arrest suspects without a warrant. Such exceptions include when a suspect is found at the crime scene, when investigators judge there is sufficient evidence to proceed without a warrant, and when the issuing authority is closed (at night, for instance). Under such exceptions, the arresting officers must have the arrest approved by a prosecutor within 24 hours. There were widespread reports that those accused of criminal offenses in Ulaanbaatar were often arrested without court authorization.

By law police must request a court order from a prosecutor to continue holding suspects beyond 24 hours. If permission from a prosecutor is obtained, police may hold suspects for up to 72 hours before a decision is made to prosecute or release. If a court order is not granted within 72 hours, police must release the suspect. These procedures are normally observed. The country also has a system akin to bail in which relatives vouch for an accused family member (unlike traditional bail, the system does not involve pledged security in exchange for release).

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees had prompt access to family members and could be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. Despite this legal provision,

many detainees were unaware of their right to a government-appointed attorney and did not assert it.

e. Denial of Fair Public Trial

The law provides for an independent judiciary and the government generally respected this provision in practice; however, NGOs and private businesses reported that corruption and outside influence were increasing problems, particularly at the level of the Supreme Court. According to NGOs and observers, bribery sometimes contributed to the dismissal of a case or reduction of a recommended sentence.

Trial Procedures

The law provides for the right to a fair public trial by a judge, although human rights groups and NGOs alleged that this right was undermined by frequent bribery and large caseloads. Juries are not used. Defendants are innocent until proven guilty and can question witnesses, present evidence, and appeal decisions. Defendants have the right to be informed of the charges against them (with interpretation as necessary); to a fair, public trial without undue delay; to communicate with an attorney of their choice (or one provided at public expense); to adequate time to prepare a defense; to access government-held evidence; and to appeal. Defendants cannot be compelled to testify or confess guilt. These rights were generally observed in practice, although AI and other NGOs reported evidence that authorities, at times, used physical coercion to obtain confessions from suspects.

Trials were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers and many defendants lacked adequate legal representation. Judges often relied on confessions, many of which AI and other human rights groups alleged were coerced by police, to convict defendants. Additionally, NGOs complained about witness intimidation by government authorities and law enforcement, limited public access to trials, and an overall lack of transparency in court decisions.

Political Prisoners and Detainees

There were no official reports of political prisoners or detainees. However, several corruption cases involving politicians raised questions, the most prominent of which was the trial of former president Nambaryn Enkhbayar. Some

commentators expressed concern about potential political motivations behind Enkhbayar's arrest. Authorities arrested him two months before parliamentary elections after he refused to comply with a series of summonses over a period of months. Enkhbayar, who was barred from running in the elections due to the court action, would have acquired parliamentary immunity had he won a seat in parliament.

Civil Judicial Procedures and Remedies

Administrative and judicial remedies were available for alleged wrongs. Corruption, outside influence, and lack of enforcement of court orders were problems in the civil judicial system. Private enterprises reported cases where courts pressured businesses to pay bribes in civil cases involving property and tax disputes. Although by law victims of police abuse can sue for damages, in practice few were able to claim compensation.

Property Restitution

Semi-nomadic herders in the southern Gobi provinces have complained to the government, NGOs, international organizations, and the media that private and government enterprises provided inadequate compensation for land use and that mining interests, many of which were international corporations, have cut off access to traditional pasturelands.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The criminal code and constitution prohibit such actions; however, there were reports of government surveillance, wiretapping, and e-mail account intrusions against journalists and NGOs critical of the government.

Enforcement of property rights was lacking due to ill-defined laws, corruption, and lack of transparency, particularly in cases involving privatization of state property. The Mongolian Employers' Association voiced concern about weak property rights and arbitrary interference in private business by the government.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press and the government generally respected these rights in practice. Nevertheless, government interference with licensing and intimidation of the press, particularly broadcast media, was evident.

Freedom of Speech: Defamation laws carrying civil and criminal penalties severely impeded criticism of government officials, particularly by reporters. Politicians implicated in crimes or malfeasance were able to use the judicial system to shield themselves from public criticism through the defamation law, according to NGO sources.

Freedom of Press: The media law bans censorship of public information (information not classified by law) and any government action that would limit the freedom to publish and broadcast; however, political influence in the media continued to be a problem. Observers stated that many newspapers and broadcast media were either affiliated with political parties or owned (fully or partly) by individuals affiliated with political parties and that such affiliation strongly influenced their reports. The observers also noted underpaid reporters frequently demanded payment to cover or fabricate a story. Additionally, a lack of transparency during the tendering process and a lack of a fully independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, government control of the licensing process similarly inhibited the development of independent television stations.

Violence and Harassment: NGOs reported that government officials, politicians, businessmen, and others subjected journalists to harassment and intimidation for reporting news. While particularly egregious cases involving physical attacks on journalists and media outlets have been investigated, the government has generally been reluctant to investigate other abuses.

In one notable example, the executive director of the company that owns Sky Television entered the station with an entourage on parliamentary election day in June and beat journalists and camera operators reportedly due to what he viewed as the station's one-sided coverage of candidates. The assaulted crew surreptitiously recorded the attacks and subsequently released it to the public and authorities. In December the television station's executive director and one of his accomplices were each sentenced to over three years in prison.

Censorship or Content Restrictions: Press representatives alleged indirect censorship in the form of government and political party harassment. Additionally,

the Communications Regulatory Committee (CRC) implemented two regulations in March 2011, *General Conditions and Requirements on Digital Content* and *General Conditions and Requirements on Television and Radio Service*, which imposed content restrictions in broad terms without providing sufficient definition of restricted content. No media content regulator existed prior to these regulations.

Additionally, the Media Office of the General Policy Authority annually sends a cooperation agreement valid for one year to all Ulaanbaatar-based television stations. The cooperation agreement provides police protection for television stations and their journalists working at places of unrest, such as protests or riots. In exchange for providing this protection, the agreement imposes certain restrictions on broadcasters. It requires the media to cooperate with the police to broadcast reports to defuse and resolve mass disorder and forbids the dissemination of information that encourages mass disorder during public demonstrations or that compromises public or organizational privacy and state security. Under the agreement, it is unclear if the police would protect journalists in the event of unrest or threatened violence against journalists or stations.

Libel Laws/National Security: Press representatives often faced the threat of libel complaints and tax audits by government authorities as well as private organizations. The law places the burden of proof on the defendant in libel and slander cases, and both defamation and insult are criminal charges. NGOs reported that these laws were used more frequently than in previous years to control the press.

Internet Freedom

While much of the country remains pastoral with countryside residents dependent on herding and agriculture, Internet access is widely available to urban populations. There were no government restrictions on access to the Internet. However, observers cited concern regarding a February 2011 regulation by the CRC entitled the “General Conditions and Requirements on Digital Content,” which places broad content restrictions on obscenities and inappropriate content without defining objectionable content explicitly. Additionally, the regulation requires Web sites with heavy traffic to use filtering software that makes the user Internet Protocol addresses of those commenting or sharing content publicly visible.

Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail, but there were reports that the government monitored

some e-mail accounts. Representatives of the LGBT Center alleged government monitored LGBT persons' personal e-mail accounts.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Foreign Travel: Foreign residents must obtain exit visas to leave the country. The law allows the prevention of foreign citizens from leaving the country for a variety of reasons including civil disputes, pending criminal investigations, or immigration violations. The law does not require an arrest warrant or official determination that charges are warranted: complaint by an aggrieved party is sufficient to deny exit. Foreign investors reported that public and private entities have increasingly used the exit visa requirement to pressure foreign nationals to settle commercial disputes and to force some NGOs, particularly nonprofit Christian organizations, to leave the country.

Protection of Refugees

Access to Asylum: The constitution provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, yet problems have persisted in a few areas. For example, by law the procedure to acquire or reacquire citizenship should take no more than six months, but it often took considerably longer. Reacquiring citizenship has proven to be a problem for returning ethnic Kazakhs originally from the country who immigrated to Kazakhstan in the early 1990s. Under the Law on the Legal Status of Foreign Citizens passed in 2010, clearer provisions concerning deportation criteria were established. At the same time, the law provided more power to the Immigration Agency to deport individuals seeking refugee status.

Employment: Under the law refugees are considered illegal migrants and, therefore, do not have permission to work.

Access to Basic Services: Due to lack of citizenship, refugees generally did not have access to basic services such as health care and education.

Stateless Persons

The UNHCR reported that many thousands of ethnic Kazakh Mongolians legally renounced their Mongolian nationality upon moving to Kazakhstan in the early 1990s in favor of Kazakhstani citizenship. However, many who were unable to gain Kazakh citizenship returned to the country, where they became stateless. The UNHCR reported that the process of reacquiring Mongolian nationality was long and complicated and recommended improving the implementation of relevant laws. Additionally, observers cited lack of awareness regarding the relevant law as a key reason for statelessness. Furthermore, the process of verification with the Kazakh government that returning ethnic Kazakhs had renounced their Kazakhstani citizenship was protracted. Further illustrating the weaknesses in the bureaucratic process, the Mongolian Immigration Agency estimated there were 40,000 ethnic Kazakhs holding both Mongolian and Kazakhstani citizenship, despite the fact that possibly tens of thousands remained stateless, as Mongolia does not recognize dual citizenship.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In the most recent parliamentary election, held on June 28, the Democratic Party garnered a plurality to defeat the former majority Mongolian People's Party (the former Soviet-era communist party). The Democratic Party subsequently formed a coalition government with the Justice Coalition (consisting of the Mongolian People's Revolutionary Party and the Mongolian National Democratic Party) and the Civil Will-Green Party. Independent observers described the election as largely free and fair.

Participation of Women and Minorities: There were no legal impediments to the participation of women or minorities in government and politics. In the June parliamentary elections, eleven women were elected to the 76-member parliament, up from three in the previous parliament. The female representatives have since formed a women's caucus to address women's and social issues. The increase in female representation was helped by a December 2011 parliamentary election law, which includes a 20 percent quota for women candidates by political parties. Three of the 16 cabinet ministers appointed by the new government, eight of the 17 Supreme Court justices, and three of the nine Constitutional Court justices were women. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were two ethnic Kazakhs in the parliament during the year .

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and some officials engaged in corrupt practices with impunity.

Corruption continued at all levels of society. Grand corruption, particularly in the key mining sector, was perceived to be the most serious threat to economic and political stability due to its potential to undermine public confidence in government. Several factors contributed to corruption, including conflicts of interest, lack of transparency, lack of access to information, an inadequate civil service system, limited political will to reform in accordance with the law, and weak government control of key institutions.

The country has taken some steps to address the issue, including laws requiring reporting of holdings and outside sources of income for all civil servants; implementation of a leadership change at the Independent Authority Against Corruption (IAAC), which has led to more corruption investigations, arrests, and trials; and creation of other agencies also dedicated to anticorruption. While the IAAC generally handles high-level corruption cases, the Criminal Police Department and Prosecutor's Office handle various types of corruption cases as well as assist the IAAC with investigations and prosecutions. Although the IAAC has a relatively large budget and broad mandate, public faith in the agency was low and it was not viewed as politically impartial. Moreover, when the agency launched corruption investigations, the results of the investigations and subsequent court proceedings were not always made public.

In December the Supreme Court sentenced former president Nambaryn Enkhbayar on appeal to serve two-and-a-half years in prison on fraud and corruption charges. Enkhbayar's legal team, family members, and supporters alleged judicial bias and procedural inconsistencies involving investigative procedures, access to witnesses, and inadequate preparation time for the defense. Observers of the four postponement hearings and trials, which were televised and open to the public, generally found the process in compliance with the law.

Although the Mongolian People's Revolutionary Party, political supporters, and critics have spoken out on Enkhbayar's behalf and viewed the case as politically motivated, the current government and many ordinary citizens saw the case as part of a necessary effort to address corruption. As of the end the year, the final resolution of the case remained unclear, as it may be appealed for a hearing before a nine-justice panel of the Supreme Court.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. NGOs initially complained the prosecution of the official soliciting the bribe and the person paying it led to less reporting of bribery but reported the problem was somewhat alleviated after the government began granting limited immunity for those paying smaller bribes.

In May the Conflict of Interest Law, which had been initiated by parliament, came into effect. The law aims to prevent conflicts of interest between official duties and private interests of those in public service roles. It also aims to regulate and monitor conflicts of interest to ensure that officials act in the public interest and that transparency and confidence in public services are maintained. The law

requires candidates for public office to submit financial statements and questionnaires on personal business interests in order to be eligible to run.

Public officials must file a private interest declaration within 30 days of appointment or election into office and annually during their term of public service. The Conflict of Interest Law provides that such declarations shall be accessible to the public and prescribes a range of administrative sanctions and disciplinary actions from fines to removal from office in the event of a violation. According to the IAAC, approximately 46,000 public officials had submitted their Private Interest and Asset and Income Declarations as of September 18. However, it remains to be seen if the IAAC will execute the law in an impartial and unbiased manner, as critics have contended political bias in the selection of cases to pursue.

The IAAC declared that nearly all of the most senior officials complied with the requirement to declare their assets and income (and those of relatives, including spouses, parents, children, and live-in siblings). The agency is also required to review the asset declarations of public servants, including police officers and members of the military, and this was carried out in practice.

Members of parliament are immune from prosecution during their tenure, which prevented a number of allegations of corruption from going to trial. According to observers, while corruption-related prosecutions increased in number, cases were often suspected of being politically motivated. Over the past year, the IAAC reported that there were 151 investigations, of which 37 resulted in conviction and 29 in dismissal. Of the remaining cases, 24 were referred to other agencies, 19 were merged with other criminal cases, and three were dropped before going to trial.

Additionally, 89 government officials were subject to administrative penalties for violations such as misreporting income and asset statements and failure to disclose conflicts of interest: 40 officials received warnings, 43 officials were publicly rebuked with salary reductions for one to six months, and the rest were discharged.

In June 2011 parliament passed the Law on Information Transparency and Right to Information, which obliges public institutions to make information on activities, budget and finance, human resources, and procurement available to the public while providing for the right of citizens to access this public information. NGOs asserted that the law is important due to its promotion of freedom of expression and media and its potential to strengthen transparent governance. However, the law's promotion and implementation was reportedly lacking.

According to NGO sources, the far-reaching State Secrets Law inhibited freedom of information and government transparency while at the same time undermining accountability. The law also hindered citizen participation in policy discussions and government oversight.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Government Human Rights Bodies: The National Human Rights Commission (NHRC) is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. It reports directly to parliament. The NHRC consists of three senior civil servants nominated by the president, Supreme Court, and parliament for six-year terms. While the NHRC was not viewed as completely independent of political influence, observers considered it somewhat effective relative to other government agencies, and much of its reporting was viewed as credible. The NHRC has also consistently supported politically contentious human rights issues, such as LGBT rights.

In 2011 the Ministry of Justice worked with a group of approximately 30 NGOs to evaluate the progress of the National Human Rights Action Plan. The cabinet discussed the report's finding in March and decided to introduce additional laws concerning NGOs and judicial reform in parliament. The former Ministry of Social Welfare and Labor (now split into the Ministry of Labor and the Ministry of Population Development and Social Welfare) also worked with civil society in 2011 to create a similar report on persons with disabilities.

While there was considerable collaboration between the government and civil society in discussing human rights issues, observers noted a lack of government resources devoted to solving persistent systemic problems as well as a failure to implement the existing laws intended to protect citizens, particularly vulnerable groups.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law states that no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status and that men and women shall be equal in political, economic, social, cultural fields, and family. The government generally enforced these provisions in practice. The law does not address gender identity.

Women

Rape and Domestic Violence: The criminal code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. If the victim is injured or is a minor, the maximum penalty is 10 years. Such a crime resulting in death, victimizing a child less than 14 years old, or committed by a recidivist may result in 15 to 25 years' imprisonment or the death penalty. Gang rape is punishable by death. However, no law specifically prohibits spousal rape, which authorities do not commonly recognize or prosecute. Victims were often stigmatized and accused of not fulfilling their marital duties. As a result many NGOs blamed law enforcement officials for spousal rape victims' silence.

According to NGOs police referred only a small number of rape cases for prosecution, generally claiming there was insufficient evidence. Additionally, NGOs alleged many rapes were not reported and claimed that police and judicial procedures stressed victims and tended to discourage reporting of the crime. Social stigma also deterred reporting.

Domestic violence remained a serious problem, particularly against women of low-income rural families. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and take victims to a refuge. It also provides for sanctions against offenders, including expulsion from the home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, authorities rarely provided this level of service and, according to NGOs, police were often reluctant to intervene in what was viewed as an internal family matter.

Arrestees were sometimes held under an administrative penalty law rather than for domestic abuse, in which case they were fined 15,000 tugrik (\$11) and detained for up to 72 hours before being released. Additionally, domestic violence cannot be reported anonymously and callers must give their names and location, thereby

dissuading individuals from reporting domestic abuse due to fear their identity might be leaked to the perpetrator.

The National Center Against Violence (NCAV) reported an increase in reported cases of domestic violence; NCAV believed this increase was likely due to increased awareness of the resources available to victims of domestic abuse as a result of media campaigns about recent legislative changes. Offenders were prosecuted under criminal codes involving assault, infliction of injury to health, disorderly conduct, or hooliganism, rather than for domestic abuse. While the government adopted the Domestic Violence Law in 2005 to provide more protection for victims of domestic abuse, the criminal law was never properly amended, negatively affecting such tools as restraining orders and the ability to bring charges of domestic abuse against suspects. Moreover, the law fails to assign responsibility to particular agencies to execute restraining orders. The Mongolian Women's Legal Association reported that, as a result, even when issued, restraining orders were poorly monitored and enforced.

The NCAV stated that in the first 10 months of the year, it provided temporary shelter to 126 persons at its six locations and provided psychological and legal counseling to 860 individuals. The NCAV continued domestic violence prevention campaigns without governmental support. In total, the former Ministry of Social Welfare and Labor (MSWL) (now reconstituted into the Ministry of Population Development and Social Welfare) provided 8.5 million tugrik (\$6,110) in the first 10 months of the year to assist victims of domestic violence.

Sexual Harassment: There are no laws against sexual harassment. NGOs stated there was a lack of awareness within society of what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and have the information and means to do so free from discrimination. However, observers cited long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel at public reproductive healthcare facilities.

Discrimination: The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases these rights were enjoyed in practice. In February 2011 parliament enacted the Law on Gender Equality. This law sets mandatory quotas for the inclusion of women within the government and political parties. It also outlaws discrimination

on the basis of sex, appearance, or age. Women made up approximately half of the workforce and a significant number were the primary wage earners for their families. The law prohibits women from working in occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health and the government effectively enforced these provisions. Many women occupied mid-level positions in government and business or were involved in the creation and management of new trading and manufacturing businesses. The mandatory retirement age of 55 for women is five years lower than the retirement age for men.

Divorced women secured alimony payments under the family law, which details the rights and responsibilities of each spouse regarding alimony and parenting. The former husband and wife evenly divide property and assets acquired during their marriage. In a majority of cases, the divorced wife retained custody of any children, but divorced husbands often failed to pay child support without penalty. Women's activists said that because businesses were usually registered under the husband's name, ownership continued to be transferred automatically to the former husband in divorce cases.

There was no separate government agency to oversee women's rights; however, there was the National Committee on Gender Equality under the Prime Minister's Office, a national council to coordinate policy and women's interests among ministries and NGOs, and a division for women and youth concerns within the former Ministry of Social Welfare and Labor. In parliament, a Standing Committee on Social Policy, Education, and Science focused on gender matters.

Children

Birth Registration: Citizenship is derived from one's parents and births were generally registered immediately, although this was not always the case for those living in rural areas or homeless individuals living in urban areas. Failure to register can result in the denial of public services and the ineligibility to participate in the Human Development Fund, which entitles citizens to a share of the nation's mineral wealth as well as social welfare benefits in the form of fixed monthly cash distributions. This particularly affected citizens moving from urban to rural areas, who often had to wait years to register and receive social services in their new location.

Child Abuse: Child abuse was a significant problem and consisted principally of domestic violence and sexual abuse. According to the governmental National

Center for Children and various NGOs, both problems were most likely to occur within families.

Child abandonment was also a problem. Some children were orphaned or ran away from home as a result of parental abuse, much of it committed under the influence of alcohol. Police officials stated that children of abusive parents were sent to shelters, but some observers indicated many youths were returned to abusive parents.

Child Marriage: The legal minimum age for marriage was 18 years old. In practice there were no legal marriages for citizens under 18 years old.

Sexual Exploitation of Children: Although against the law, the commercial sexual exploitation of children less than 18 years old was a problem. According to NGOs, there were instances where teenage girls were kidnapped, coerced, or deceived and forced to work as prostitutes. Sex tourism from South Korea and Japan reportedly remained a problem. The minimum age for consensual sex is 16 years old. Violators of the statutory rape law are subject to a penalty of up to three years in prison. The law prohibits the production, sale, or display of all pornography and carries a penalty of up to three months in prison. However, NGOs stated that online child pornography was not uncommon. Furthermore, NGOs reported there was no corresponding agency to deal with child pornography or sex advertisements on the Internet and police did not routinely investigate either crime.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish population was very small, and there were no reports of anti-Semitic acts during the year.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The labor law prohibits discrimination in employment and education against persons with disabilities. The law defines the types of disabilities as including those concerning physical, sensory, and mental but not intellectual attributes. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, the government did little to execute such measures, and in practice, most persons with disabilities faced significant barriers to employment, education, and participation in public life.

In 2010 a law took effect that mandates standards of physical access for persons with disabilities to newly constructed public buildings; however, two years later the law had not been applied. Government buildings and public transportation remained largely inaccessible to persons with disabilities. Despite a law introducing standards for road construction, the persistence of open manholes, protruding obstacles, and unheeded crosswalks prevented many persons with disabilities from moving freely.

Persons with disabilities could not fully participate in the political process since little accommodation was made for such persons at polling stations. According to a study done by Mercy Corps during the June parliamentary elections, out of 60 polling stations in Ulaanbaatar, only 15 percent were accessible for persons with disabilities, while 47 percent were completely inaccessible due to being located in basements or upper floors with no elevator access. Most polling stations offered magnifying glasses for voters with visual impairments and some used portable ramps for wheelchair users. Persons with sight and hearing disabilities had difficulty remaining informed about public affairs due to a lack of accessible broadcast media.

The government has various policies to provide benefits and promote respect for persons with disabilities. It provided tax benefits to enterprises that hired persons with disabilities. Additionally, the law requires workplaces to hire three persons with disabilities for every 50 employees, or pay a fine. NGOs reported that most companies were reluctant to hire persons with disabilities and preferred to pay the fine. Furthermore, the government itself failed to employ persons with disabilities in the ratio required of other employers.

There were several specialized schools for youth with disabilities, although students with disabilities could by law also attend regular schools. In practice children with disabilities had limited access to education. NGOs dedicated to promoting rights for persons with disabilities reported that there was a dearth of

understanding regarding what constitutes a disability. Government studies were often overly inclusive, counting those with illnesses or even mild vision problems as persons with disabilities, while educational institutions frequently failed to identify mental and developmental disabilities. Furthermore, while schools generally have classes dedicated to the disabled, they do not separate students based on disability type. The Mongolian National Federation of Disabled People's Organization (MNFDPPO) reported it was unaware of any public kindergarten or secondary school with wheelchair ramps or access for the disabled. The MNFDPO encouraged vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses.

The law requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided benefits, the amount of financial assistance was low and it did not reach all persons with disabilities due to the absence of any system of distribution and care for such persons. The MNFDPO stated that benefits were provided in a manner that often failed to meet the needs of the recipients.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Consensual same-sex sexual conduct is not specifically proscribed by law. However, AI and the International Lesbian and Gay Association criticized a section of the penal code that refers to "immoral gratification of sexual desires," arguing that it could be used against persons engaging in same-sex sexual conduct. LGBT persons reported harassment and surveillance by police, although NGOs reported a marked improvement in police investigations of crimes against LGBT individuals as well as more respectful police treatment of victims. Nevertheless, NGOs reported difficulties estimating the extent of crimes committed against LGBT persons due to a combination of limited law enforcement data and a lack of reporting due to social stigma and fear of reprisal.

A strong bias in society as well as the government and court system continued, as authorities frequently dismissed crimes against LGBT persons. LGBT persons reported fear of perpetrators acting with impunity against them in cases where they spoke out against abuse and raised court charges against their attackers.

There is no law prohibiting discrimination on the basis of sexual orientation. There were reports that individuals were assaulted in public and at home, denied service from stores and nightclubs, and discriminated against in the workplace

based on their sexual orientation or gender identity. There also were reports of abuse of persons held in police detention centers based on their sexual orientation. Some media outlets described gay men and lesbians in derogatory terms and associated them with HIV/AIDS, pedophilia, and corruption of youth.

The government, while acknowledging that discrimination against LGBT individuals was a problem, stated that social acceptance of gay men and lesbians must be promoted before definitive steps can be taken.

The law concerning rape (Article 126 of the criminal code) addresses only rape of female persons; rape of males is not a crime under the article, instead being prosecuted under Article 126 (which simply refers to unnatural sexual gratification). Since the criminal code does not recognize males as victims, it is difficult to prosecute such rapes.

Other Societal Violence or Discrimination

There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed. The public continued largely to associate HIV/AIDS with same-sex sexual activity, burdening victims with the attendant social stigma.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements and protects the right to strike and the right to collective bargaining. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without formal employment contracts. The law bars certain public servants from striking. However, all groups have the right to organize. The law protects the right of workers to participate in trade union activities without discrimination and the government protected this right in general. The law provides for reinstatement of workers fired for union activity, but the Confederation of Mongolian Trade Unions (CMTU) states that it was not always enforced.

The government prohibits third parties from organizing a strike. Moreover, persons employed in essential services, which the government defines as occupations critical for national defense and safety and includes police services, utilities, and transportation, do not have the right to strike. The list of essential services appeared to comply with International Labor Organization guidelines.

The law on collective bargaining regulates relations among employers, employees, trade unions, and the government. Wages and other conditions of employment are set between employers, whether public or private, and employees, with trade union input in some cases. The government does not allow intervention in collective bargaining by third parties, and its role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Nevertheless, labor associations indicated that outside groups such as pension fund offices or other labor-related organization at times inserted themselves into the process for personal gain. In such instances, an outside group generally forced its own union on the unwilling company (as opposed to a union composed of the company's actual employees to represent employee interests directly).

Laws protecting the right to collective bargaining and freedom of association generally were enforced in practice, most often through the courts. The tripartite Labor Dispute Settlement Committee resolves disputes between workers and management.

In January and February, secondary school teachers countrywide demonstrated and went on strike demanding wage increases to accommodate rising prices and inflation. The government ultimately acceded to teachers' demands and provided adjusted salary increases.

In December 2011 former laid-off employees and the CMTU accused South Gobi Sands, a foreign-owned mining company, of illegally dismissing 38 of its employees allegedly for wanting to form a union to protect their rights to a clean and safe working environment and to ensure adequate social protection. South Gobi Sands countered that the layoffs were a result of financial difficulties caused by a reduction of rest days between work periods and salary increases. The case has since been resolved; 37 of the workers have been compensated and one worker was rehired.

On November 5, over 300 bus drivers and employees for Autobus-1, a public transportation company, went on a hunger strike to protest wages and working hours. The strike ended after the deputy governor of Ulaanbaatar met with

demonstrators and pledged to take action. A new director was subsequently appointed on November 13, initiating a 20 percent wage increase and a decrease in working hours.

In another case the administration failed to enforce a 2009 court order requiring the compensation and rehiring of striking Aero Mongolia mechanics. When the strikers subsequently picketed Aero Mongolia, police forcibly removed them from the grounds while threatening arrests. The government failed to enforce the Labor Law, which states that foreigners can only be hired for tasks that Mongolians cannot carry out. However, the Immigration Agency granted a work permit and a work visa to enable a Dutch engineer to replace the striking workers. After the Supreme Court ruled against it, Aero Mongolia filed a new case during the year claiming the union to be illegal. The fired mechanics initially reported being blacklisted as a result of their union activities. Management ultimately rehired most but not all of the workers.

There were also some violations of collective bargaining rights. In a case involving the Federated Food and Agriculture Union, a manufacturing enterprise fired 20 workers for protesting against mismanagement of the company. The majority of workers have since been rehired.

In an ongoing case, the mining agreement over Tavan Tolgoi was challenged by the CMTU on the basis that it was formed outside the tripartite process without agreement between employers and employees on matters relating to workers' rights and social protections. The CMTU was also dissatisfied with the former Ulaanbaatar city governor, who had not appointed an arbitrator to resolve such issues. The CMTU's stated goal was to ensure that Mongolian labor (as opposed to foreign labor) predominated on the project. While hiring companies argued there was not a sufficient pool of skilled workers for technical and semiskilled labor, the CMTU countered that these skilled workers were available and underutilized. At year's end, negotiations continued between the development companies, the government, and CMTU.

b. Prohibition of Forced or Compulsory Labor

The law specifically prohibits forced or compulsory labor, including by children. However, there were isolated reports that such practices occurred.

There was ongoing use of forced labor within military units, whereby military officials subjected subordinates to cutting firewood, digging ditches, or working at construction sites owned by the officials' friends or relatives.

Approximately 2,500 to 5,000 North Korean laborers were employed in mining, factory work, utilities, transportation, construction, customer service, and health service at various times throughout the year, particularly during the summer. There was concern that some North Korean workers were not free to leave their employment or to complain about unacceptable work conditions. Also, employers restricted their freedom of movement and communication and they received only an unknown fraction of the money paid to the North Korean government for their work.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under 14 years old from working. Those who are 14 or 15 years old may work up to 30 hours per week with parental consent. According to the Labor Code, children 14 years old may take employment for the purpose of acquiring vocational training and work experience with parental consent and permission from the state; children 15 years old may conclude a contract for employment with permission from parents or guardians. The workweek for children 16 and 17 years old is capped at 36 hours. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Nevertheless, authorities reported that employers often did not follow the law, employing minors for well over 40 hours per week and paying them less than minimum wage.

Labor inspectors assigned to regional and local offices are responsible for enforcement of these prohibitions and all other labor regulations. Inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited due to the small number of labor inspectors and the growing number of privately owned enterprises. Inspectors generally did not conduct inspections in the informal sector. In the country, there were 47 labor inspectors from the General Agency for Specialized Inspection responsible for all aspects of labor inspections, including child labor.

Child labor occurred in the construction and mining (coal, gold, and fluorspar mineral) sectors, although largely if not exclusively in the informal, artisanal mining sector. The General Agency for Specialized Inspection reported three deaths of minors working in construction during the year.

Children worked informally in petty trade, construction, hotels, restaurants, and unauthorized small-scale mining as well as scavenging in dumpsites and herding animals. While statistics were limited, NGOs and government officials reported that widespread alcoholism, poverty, and parental abandonment made it necessary for many children to support themselves. During the year, the National Center for Children reported that 68,580 children under 18 years old were working in the formal and informal sectors: 91.7 percent in agriculture, hunting, and forestry; one percent in manufacturing; 0.8 percent in mining and the exploration sector; and approximately 0.5 percent in hotels and restaurants. While the government approved the National Program for the Worst Forms of Child Labor in October 2011 and revised its labor law during the year, it had yet to allocate resources to deal with the issue. The National Center for Children reported that 978 children under 18 years old engaged in the worst forms of child labor; 360 children were removed from such work.

International organizations continued to voice concern over child jockeys in horseracing. According to NHRC reports, more than 30,000 child jockeys competed in horse races each year. Children commonly learn to ride horses at age four or five and young children traditionally served as jockeys during the national Naadam festival, where races range from two to nearly 20 miles. The state bans racing with child jockeys during the coldest period (October 18 through February 13) and there are regulations requiring adequate headwear. With increased NGO monitoring during horseracing events, there reportedly was greater adherence to these regulations.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The legal minimum wage was 140,400 tugrik (approximately \$100) per month. National poverty estimates are based on population-weighted subgroup estimates from household surveys. A joint study during the year by the World Bank and the country's National Statistics Office indicated that 29.8 percent of the population lived below the poverty line using an inflation-adjusted food price index (generally

at 1,740 tugrik, or \$1.25 a day). The minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor (recently reconstituted into the Ministry of Labor), did not provide a decent standard of living. The problem was exacerbated by significant inflation over the past year. Many workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage was reset annually by the Ministry of Social Welfare and Labor (now the Ministry of Labor) in consultation with trade union representatives and employers.

The standard legal workweek is 40 hours and there is a minimum rest period of 48 hours between workweeks. Nevertheless, recent mandates by the national government have compelled some ministerial employees to work 10-hour days, six days a week. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. There is no law mandating sick leave for workers. According to the government, employers set their own rules in this regard.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. The laws governing minimum wage and working hours generally were enforced, but enforcement of safety standards was inadequate. Although inspections were conducted both proactively and in response to complaints filed, the CMTU stated the MSWL had an insufficient number of inspectors. The State Specialized Inspection Agency responsible for all aspects of labor inspections had 47 labor inspectors. A CMTU representative stated that fines imposed on companies not complying with labor standards were insufficient to induce management to resolve problems cited by inspectors.

The CMTU estimated that 60 percent of the labor force (or 1.1 million workers) worked in the informal economy (livestock, herding, agriculture, artisanal mining, and unregistered trade) and were not regulated. While the government does not provide specific programs for social protection of workers in the informal economy, such workers were able to access health care, education, social entitlements, and an optional form of social security.

The heavy reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the construction, mining, and power sectors. While industrial accidents increased alongside industrial and mining sector growth, most accidents occurred at unofficial construction sites and private mining areas. The General Agency for Specialized

Inspection reported that there were approximately 19 bystander deaths from falling equipment, scaffolding, and building materials at unregulated building sites during the year. Large multinational projects, such as those at Tavan Tolgoi and Oyu Tolgoi, were better at ensuring safety standards.

Many foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations. As the government did not monitor the working or living conditions of Chinese or North Korean laborers, details were unavailable. North Korean worker conditions were not fully known, and secrecy surrounded the contractual agreements, labor rights, and compensation of these workers. However, observers stated that North Korean laborers likely failed to receive the minimum wage. The press reported that Mongolian companies paid North Korean workers' wages directly to the government of North Korea. NGOs reported that companies wishing to employ North Korean workers could do so through mediator companies. There were no official reports on labor exploitation, but there were several cases in which workers, mostly Chinese, were deported without receiving their wages. Few if any cases ever moved past the investigatory phase before the foreign workers raising the complaints were deported.

The country's Labor Law requires equal pay for equal work. Surveys by various organizations and NGOs reflected that men and women were not paid equally for equal work performed.