

Status of Human Rights in Mongolia

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ABSTRACT

Human rights are the most relevant concerns in the 21st century in the whole world. All democratic societies are giving much priority to the promotion of human rights than other issues. Debates and discussions at the local and global levels are taking place for ensuring and promoting human rights in the states through constitutional ways. Mongolia, which opted for democracy in 1990, is now a democratic country involved in rapidly expanding the area of human rights in the Mongolian legal system. This study examines the state of human rights in Mongolia and the role played by local and global institutions and organizations for the promotion and protection of human rights. It will try to evaluate the real situation of human rights in Mongolia on ground. It will also critically scrutinize that how many rights are declared as fundamental rights and protected by authoritative institutions is another important aspect of this study. Awareness about human rights in citizens is an important point. Mainly this study will be focus around the increment of human rights in Mongolia.

Key Words : Human Rights, Mongolia, Democracy, UDHR, Constitution

INTRODUCTION

In the present day world, human rights and fundamental freedoms rank among the highest priorities for the states. It is given priority among other things in the United Nations and in various regional organizations. Various Non-Governmental Organisations (NGOs) are working for the protection and promotion of human rights at the national and international levels. All nations are trying to prove that they are protecting human rights most. Everybody tries to define it in his or her own way to reach the desired goal. Precisely for this, it is difficult to define the hydra headed concept of human rights. Since there is not a single approach, different arguments and debates can be examined.

Rights refer to moral righteousness on the one hand and entitlement on the other. From the common point of view rights are merely remedies for wrong experienced at the hands of despotic rulers. All these rights are fundamental in the sense that they alone are the remedies

and impose limitations on governmental authority. Philosophical point of view on rights indicates that it is an inquiry in to the rationale behind the formula of rights and wrongs and involves the setting up of some standards of judgements. Human life has a purpose and duty of the man is to strive to achieve that purpose is the central feature of such standards. This view leads to the conclusion that no government is justified in exercising its power to interfere with man's rights. Everyone has the right to life, liberty and security of person. Human rights are compulsory for all human beings. These rights are not restricted to any groups and individuals (UDHR, 1948).

In the United Nations General Assembly the Universal declaration of human rights adopted on 10th December 1948. This declaration is a statement of principles not a binding treaty. There is no international mechanism to impose this agreement on the states because each and every state is sovereign and independent. Though human rights are pertaining to all

the citizens irrespective of their country there is no legitimate authority at global level to punish violators. However, UN is the only legitimate International body to implement the human rights at the global level. So General Assembly of the United Nations proclaims that “This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and International, to secure their universal and effective recognition and observance, both among the peoples of the member states themselves and among the peoples of territories under their jurisdiction” (ibid).

So far as promotion of human rights in Mongolia is concerned, it has been paying attention to ensure democratic governance principles in the National Constitution since 1992. According to the Constitution, “The Fundamental principles of the activities of the state shall be securing democracy, justice, freedom, equality, national unity and rule of law” (Article 1). Remarkable progress was achieved in the past to ensure democratic values such as human rights, freedoms, fairness, transparency, equality, state of art of legacy and improvement of government system. This constitution provides a wide range of opportunities for Mongolian peoples to get experience of democratic regime, allocation of power in the government particularly protection and promotion of the human rights in the country. Human Rights concerns have been widely accepted in the Mongolian constitution, those are closed with the Universal Declaration of Human Rights. Article 16 of the Mongolian Constitution guarantees rights of human beings in 18 sub articles, including right to life, education, safe environment, free choice of employment, personal liberty and safety and freedom of movement and residence within the country. According to the constitution, state is responsible for ensuring human rights in Mongolia. Thus the State is obliged to create economic, social, legal and other guarantees for ensuring human rights and to fight against violation of human rights and freedoms (Constitution of Mongolia, 1992).

At the international level Mongolia also attracts attention of international Human rights and democratic communities. The Fifth International Conference of New or Restored Democracies (ICRND-5) was held in Mongolia in 2003 and as follow up Mongolia was

committed to share the experience and knowledge on its democratic achievements with the countries being facing transitions and political difficulties. U.S. supported Mongolia as it organized the International Women’s Forum, under the auspices of the Community of Democracies chairmanship. The Forum even featured a keynote address from Secretary of State Hillary Clinton, who said, “If you want to see democracy in action, if you want to see progress being shaped by leaders who are more concerned about lifting up their people than fattening their bank accounts, come to Mongolia” (The UB Post, 2012).

After the success of democratic revolution of 1989-1990, Mongolia opted for democracy and market economy. However, it has faced various types of challenges in implementing democratic values in practice in diverse political and socio-economic ground. Such challenges includes promotion and protection of human rights as well: The review of literature on this subject, therefore, has been done thematically in the following manner:

Democracy and Human Rights in Mongolia:

Mongolia is a best example to learn how people interpret democracy, which is their understanding and attitudes toward the concept. Mongolia provides an excellent study because the government and people seemed to transition away from soviet socialism toward capitalist democracy so rapidly. Starting in 1990, Mongolia underwent government reorganization from the party rule to liberal democratic principles of individual rights and freedoms, rule of law, equality and popular sovereignty. All of these are stipulated in the 1992 constitution (Dierkes, 2012).

Mongolian experience provided an example of peaceful transition toward democratic principles and universal human values, being in Asia, the peaceful Character of the Mongolian transition deserves special attention. During the official visit of North Korea Mongolian President Tsakhiagiyn Elbegdorj told that “We, Mongolia, are a country that respects human rights and freedoms, upholds rule of law, and pursues open policies. Mongolia holds dear the fundamental human rights—freedom of expression, the right to assembly, and the right to live by one’s own choice. I believe in the power of freedom. Freedom is an asset bestowed upon every single man and woman. Freedom enables every human to discover and realize his or her opportunities and

chances for development. This leads a human society to progress and prosperity. Free people look for solutions in themselves (Journal of Democracy, 2014: 179).

Mongolian Constitution declares to cherish the human rights, freedoms and justice in the preamble of the constitution. Chapter two titled as human rights and freedoms. According to article 14.1 of the Constitution, "All persons lawfully residing within Mongolia are equal before the law and the Court." Thus, no person is discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion or education. Everyone shall have the right to act as a legal person and state is obliged to create economic, social, legal and other guarantees for ensuring human rights and to fight against violation of human rights and freedoms.

Main article guaranteeing human rights in the Constitution of Mongolia is article 16 of the Constitution. It is been widely accepted that those provisions in the Constitution are in consistence with the Universal Declaration of Human Rights. The present article 16 guarantees rights of human beings in 18 paragraphs including right to life, healthy and safe environment, fair acquisition, possession and inheritance of moveable and immovable property, free choice of employment, favorable conditions of work, remuneration, rest and private enterprise. Same article includes right to financial assistance in old age, disability, childbirth and child care and in other circumstances. Protections of health and to medical care, education, engagement in creative work in cultural, artistic and scientific fields are basic rights provided by constitution. Citizens have tight to take part in the conduct of state affairs, form a political party or other public organizations and to unite voluntarily in associations according to social and personal interests and opinion, equal rights for men and women. Article 16 guarantees right to submit a petition or a complaint to state bodies and officials, personal liberty and safety, privacy, appeal to the Court, be compensated for the damage illegally caused by others (Constitution of Mongolia, 1992).

Under the constitutional provisions, Mongolia growing the importance of civil society, because an active civil society is must for the promotion of human rights and consolidation of democracy, holding the accountability of the government and articulating the interest of the citizens. Since 1992 the numbers of civil societies in Mongolia is growing continuously and also diversifying

its area of working. It is also an illustration of interest and general willingness of individuals and groups to participate in democratic governance and exercise their participatory rights anticipated in Article 16 of the Constitution. After the observation of civil societies and especially the activities of NGOs it can be say that still much more needs to be done to make the civil society more vibrant, active and effective, to make it an important element of democratic changes and consolidation. They are growing quantitatively not qualitatively; still they are in weak position. In the present days civil societies and NGOs in Mongolia are facing problems such as lack of government support, weak civil society infrastructure, lack of experience, financial crisis and weak understanding about civil society within society at large (Enkhsaikhan, 2005).

Mongolia has defined its national MDGs and targets that reflect the country's needs and priorities. Mongolia adopted its 9th MDG on human rights, democratic governance, and anti-corruption. MDG-9 has three associated objectives: (1) Fully respect and uphold the Universal Declaration of Human Rights, ensure the freedom of media, and provide the public with free access to information, (2) Mainstream democratic principles and practices into life, and (3) Develop a zero-tolerance environment to corruption in all spheres of society (Khatanbold, 2013).

In 2000, State Great Khural passed an act named 'National Human Rights Commission of Mongolia Act' for the purpose of 'Promotion and Protection of Human Rights'. This commission also charged with monitoring over the implementation of the provision on human rights and freedoms provided in the constitution of Mongolia, laws and International treaties shall prevail. This Commission came in operations on 1 February 2001. Main functions of Commission are following-

- To protect the human rights, peoples residing in Mongolia.
- Encourage agreement and ratification of international human rights treaties.
- Promote human rights education
- Increase public awareness on laws and international treaties related to human rights
- Make suggestions for effective implementation of international human rights covenants

This commission submits reports to Mongolian Parliament annually concerning situation of human rights in Mongolia. This commission has social, economic,

political and legal guarantees from the government side. The Commission may have research conducted by research organizations or non-governmental organizations on the issues, which are considered as required (National Human Right Commission of Mongolia Act, 2000).

Human Rights Situation:

Mongolian government generally respects human rights and freedoms but many times human rights problems can be seen in the country. Major problem relates from the children, women, labours, and detained peoples. Widespread corruption in the government is a basic issue of human rights. Violation of the worker's rights working in the mining sector is a major issue of human rights. Mongolian constitution provides freedom of speech and press but many times government interference with licensing and intimidation of the press. Lack of transparency during the licence tendering process is common. Incidents of violence and harassments of journalists are most common during the election years. It shows that political interference in the media is widespread. Individual and groups may engage in the peaceful expression views on the Internet. However government restricted content in some cases. As of October 2014, 228 blocked sites found (US Department of State, 2015).

Government has right to restrict article 16(10) in some cases such as the denial of access to public venues for a LGBT organizations. Article 18.5 provides right to the government to make restriction on the ground of national security and maintenance of public order. Law provides criminal penalties for official corruption. But on practical ground government did not always implement the law effectively and corruption continued at all levels of government. In 2014, MPs including 14 of 19 current cabinet ministers are immune from prosecution during their tenures (ibid).

The existing domestic violence law was deemed insufficient for several reasons, including a lack of deterrence, inadequate victim protection, and the lack of legislation that would specifically prohibit spousal rape. Once the offender was prosecuted, there was no other known police or government intervention in domestic violence cases. Furthermore, authorities often used the Administrative Responsibility (The Advocates for Human Rights, 2012).

Despite the law women faced discrimination in employment. Rape and domestic violence remained a

serious and widespread problem. Many rapes were not reported and stated that cultural norms, as well as stressful police and judicial procedures, tended to discourage reporting. The Judicial General Council reported that during the first half of the year 2014, 98 rape cases were registered at court; 10 involved victims under age 16. In the same period, 109 persons were convicted of rape. In the first seven months of the same year, the NGO National Center against Violence (NCAV) registered 660 reports of domestic violence (US Department of State, 2015).

Child abuse is a significant problem and consisted principally of domestic violence and sexual abuse. According to the government's National Authority for Children (NAC) and various NGOs, both problems are most likely to take place within families. The NHRC reported that domestic violence against children often was unreported because children were either afraid or unable to report to relevant authorities. The NAC and the Ulaanbaatar Metropolitan Police Department reported that they received increased reports of both domestic violence and sexual abuse of children, although they attributed this to growing public awareness of the problems. Child labour is a violation of fundamental human rights. In Mongolia, 10% of children aged 5 to 17 (over 56,000 children) perform child labour, particularly in the agriculture sector, but also in the forms of horse racing, construction and mining. Hazardous work is especially common in construction and mining, with over half of 15 to 17 year olds in these sectors performing such work. More children in rural areas than urban areas are engaged in child labour, as are more children from poorer households. Boys face a higher risk of child labour than girls (ibid).

Agriculture sector covers more than 90% of the working children, especially in rural areas. Most children herding for other families do not have formalized contracts, so their pay and working conditions are not recorded. Their parents enter into verbal agreements with host families, leaving them in danger to exploitation, physical and mental harm and breaches of their rights, including being beaten, sexually assaulted, overworked, deprived of food and drink, and working in extreme weather. "Mongolia Policy Brief: Child Labour" a report published by the ILO in 2016 cites a joint report published by The International Labour Organisation and the National Human Rights Commission of Mongolia (NHRCM) on the worst forms of child labour in Mongolia in 2008, including at informal mines in eight different

provinces. Overall 85% of children interviewed were male, and lack of employment contracts was common. 63% children worked 6 or more hours per day or from morning until night without specific hours, and 73% reported working every day. Over half worked underground or in polluted and noisy conditions. Safety equipment was used occasionally. Over half suffered accidents at work and over half reported their health deteriorated because of their work (ILO, 2016).

Mongolian constitution and other laws do not clearly discriminate on the basis of sexual orientation and gender identity. But on the another side, there is no specific law prohibiting discrimination on the basis of sexual orientation or gender identity of LGBT in Mongolia. The law permits individuals who have had gender reassignment surgery to have their birth certificate and national identity card reissued to reflect the change, and the LGBT center reported that transgender persons successfully applied for new identity cards under this provision. LGBT individuals faced violence and discrimination both in public and at home based on their sexual orientation or gender identity. Discrimination in the workplace has been identified by LGBT Mongolians as one of the most serious and frequent human rights violations (United Nations Development Programme, 2016).

Global Initiatives:

In the human rights area, Mongolia is guided by the principles of its Constitution and international human rights instruments, in particular Human Rights Declaration, Political and Civil Rights Pact, Economic, Social and Cultural Rights Pact, and other multilateral treaties and agreements. Since becoming a member of United Nations in 1961, Mongolia has been active across all the three main pillars of the UN, *i.e.* development, peace and security, and human rights. Mongolia fruitfully cooperates with the relevant UN agencies through receiving professional advice and technical assistance in optimizing its national legislation in compliance with the international treaties and conventions, preparing human resource for the courts, police and other law enforcement agencies and building capacity to truly guarantee human rights. Mongolia has ratified around 30 international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (UNDP, 2014).

Mongolia signed on the Rome Statute on 29th December 2000 and became a ratified member of

International Criminal Court. Its entry came in force with the functioning of International Criminal Court on 1st July 2002. The Rome Statute is the treaty that established the International Criminal Court, an international court that has jurisdiction over certain international crimes, including genocide, crimes against humanity, and war crimes that are committed by nationals of states parties or within the territory of states parties (International Criminal Court).

In October 2015 Mongolia elected as a member of United Nations Human Right council (UNHRC) at the 70th regular session of the UN General Assembly, with votes from 172 out of 193 United Nations member states. Receiving votes from 172 member states shows that these member states recognized Mongolia's past contributions to activities initiated by the UN and international communities and that they hold high expectations from Mongolia's future contributions. Mongolia demonstrated its strong commitment to the Universal Declaration of Human Rights and strengthened the international human rights system by ratifying and committing to over 30 international human rights conventions (Gankhuyag, 2015).

In the women's rights area, Mongolia is guided by the principles of its Constitution and international human rights instruments. Mongolia fully cooperates with the relevant United Nations agencies through receiving professional advice and technical assistance in optimizing its national legislation in compliance with the international treaties and conventions for the promotion and protection of women's rights.

As a member of the European Union's improved Generalized Scheme of Preferences (GSP+), Mongolia benefits from trade incentives dependent on agreement with international Conventions, including on child labour. In 2002, Mongolia ratified "Minimum Age Convention 1973, (No. 138) for the determination of minimum age of the child labours (ILO, 2016).

International human rights mechanisms have consistently helped to create the context for raising the issue of LGBT rights in Mongolia. The Special Reporter on extreme poverty and human rights visited Mongolia in 2012 and released the report in May 2013. In 2014, the Human Rights Forum, a group of around 40 human rights civil society organizations conducted a review of Mongolia's implementation of the Universal Periodic Review recommendations. Mongolia has ratified seven core human rights treaties, which have helped create the

context for promoting LGBT rights. Thus, in recent years, significant progress has been made in bringing LGBT rights issues to the attention of international human rights mechanisms, including UPR (2010), CEDAW (2008), CAT (2010), and Human Rights Committee (2011), through successive submissions covering legislative Frameworks and existing practices. The LGBT Centre played an important role in this process (UNDP, 2014).

Conclusion:

Human rights concerns are most relevant in 21st century for the world. All democratic societies are giving priority than other issues. A great discussion is taking place for ensuring and promoting of human rights in the states through the constitutional ways. Mongolia is a democratic country in the East Asian region. Since it turned towards democracy in 1990, Mongolia is rapidly expanding the area of human rights in the Mongolian legal system.

On 7th December 2000, Mongolian Parliament passed “The National Human Rights Commission of Mongolia Act.” This act came in the operations on 1st February 2001. In October 2015 Mongolia elected as a member of United Nations Human Right council (UNHRC) at the 70th regular session of the United Nations General Assembly. Above facts clearly proves that beginning of the 21st century established a milestone to ensure and promote human rights in Mongolia and still it is continuing.

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