

## **A Substantial Investigation of Civil and Political Rights in Mongolia**

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### **ABSTRACT**

Mongolia is a democratic country. After democratic revolution Mongolia adopted constitution in 1992. Protection of fundamental rights is back bone of democracy and democratic states also. To protect the freedom, rights and properties is a basic duty of the democratic states. Mostly all decisions which come from the government side have main motive to strengthen the democracy and promotion of the basic rights. Mongolian constitution provides a wide range of opportunities to its citizens to exercise their basic rights under the constitutional provisions and especially protection and promotion of human rights. Mongolian constitution provides fundamental rights to all its citizens. Mongolian constitution proclaims own main objectives to protect human rights and to maintain rule of law in the country.

**Key Words :** Mongolia, Constitution, Human Rights, Fundamental Rights

### **INTRODUCTION**

Chapter two of the Mongolian constitution explains severely about fundamental rights and freedoms titled with 'Human Rights and Freedoms', it shows Mongolia's seriousness about freedoms and human rights. Various articles (Art. 14 – Art. 19) describes about all civil, political and cultural rights of the Mongolian citizens. 'All persons lawfully residing within Mongolia are equal before the law and the Court' stated article 14.1 of the Mongolian constitution. Thus there is no discrimination between the Mongolian people on the basic of caste, race, occupation and property, education, social origin and status, age, sex and language. Every individual are equal before the law and there is no privilege on such a ground. Constitution reserves all right to handle all cases concerning granting or losing of Mongolian citizenship and all other procedures for Mongolian nationality. It clearly indicates that nobody have right to provide or force out from the Mongolian citizenship out of constitutional provisions (Constitution of Mongolia, 1992).

### **Civil, Political, Economic, Social and Cultural**

### **Rights:**

Article 16<sup>Th</sup> of the Mongolian constitution deals about freedoms very exclusively. This article deals very frankly about all civil, political and property rights in 18 important points. Every individual residing Mongolia has right to life. It means no one have right to prevent others right to live except court's judgments in serious crimes. But Mongolian constitution provides very less space for the capital punishment. According to constitution, "Deprivation of human life shall be strictly prohibited unless capital punishment is imposed by due judgment of the Court for the most serious crimes, pursuant to Mongolian Criminal law". But after the election of Democratic Party's president Tsakhiagiin Elbegdorj in 2009 to sentence to death in Mongolia because in 2010 and he started to prevent death penalty. In 2010 Elbegdorj tried to replace capital punishment by a punishment of 30 years imprisonment. He announced to use his prerogative power to pardon death penalty (Erdene, 2016). Finally death sentence has been removed from the Mongolian criminal law by an act in 2015 and it is in effect from July 1, 2016.

According to Constitution, "Every individual residing

in Mongolia has freedom of thought, opinion and expression, speech, press, peaceful assembly. Procedures for organizing demonstrations and other assemblies shall be determined by law". Thus every individual is free to roam fearlessly within state's territory and also has right to express own opinion and to assemble peacefully under the laws. Peoples are free to reside and move within the country and to go abroad and to come back their home country under the constitutional norms. The matter of go and reside abroad determines by the law mentioning national security and public order. Constitution provides right to choose, practice and faith any religion according to own mind. Personal liberty and safety is very important for every democratic state. Mongolia provides personal liberty to its citizens. No can detain or search to any individual or group out of grounds established by law. It is mandatory for the appropriate authority to maintain the secrecy on detained person, his/her family and home (Constitution of Mongolia, 1992).

Mongolian citizens have right to choose own occupation and employment, time for rest and work, better condition for work and to do own farming. It means no body can force them for work or rest. Constitution provides right to get financial assistance in case of disability, childcare, childbirth, and in old age. Peoples have property rights; they can buy and save their own private property. Any government or public authority can't use public's private property without paying compensation decided by law and it can do only on the public need. Constitution provides right to education to all citizens of Mongolia free of cast. Peoples have right to establish their own educational institutions according to government norms. There is proper space in Mongolian constitution of the citizens to engage own self in creative works in all artistic, scientific and cultural fields and get benefits. By law Mongolian citizens have right to get medical care and health protection by the government. It is primary goal of the all democratic government to provide all above rights to their citizens.

Political rights are very important part of the fundamental rights. Any government in modern state can't be a democratic government without providing political rights to their citizens. Mongolia is a democratic country which provides all political rights to its citizens. According to the Constitution, "Mongolian citizens have right to elect and to be elected to state bodies" (Art. 16.9). Every citizen of Mongolia which is 18 years old has right to elect their representatives for legislature through the vote.

They also have right to contest elections those are fulfilling all requirements established by law. People can join or leave any political party or mass organization according to own interests, there is no interference in such kind of activities by government or any other authorities. A few categories of state employees cannot affiliate with any political party. Every citizen have right to complain or submit a petition to state bodies and state bodies are bound to respond them under the constitutional provisions (Ibid).

Mongolian constitution provides right to information to all its citizens about governments activities to maintain accountability and transparency in the government, but government is bound to maintain secrecy in various matters as such national security and state defense, reputation of state and other secrets of the state and organizations. Every individual has right to appeal to court in protection of his/her rights provided by Mongolian constitution, International laws or any other authorized body (Constitution of Mongolia, 1992).

These rights are not absolute right; constitution establishes limitations on these rights in article 19.2 of the Mongolian constitution. Right to life, conscience and religion and the freedom of thought cannot be restricted in any situation such as martial law or state of emergency. As article 16.13 says "No one shall be searched, arrested, detained, persecuted or restricted of liberty except in accordance with procedures and grounds determined by law". This article explains that on the ground of national security and public order these rights can be restricted. As constitution provides right to freedom of movement, travel and abroad in article 16.18, but in the same article government has right to restrict this right on the ground of national security and public order.

We can classify these limitations in the following way:

- Right to life, conscience and religion, freedom of thought, to join any political party or organization and insurance from the torture, inhuman and cruel treatment cannot be limited in any situation;

- Right to freedom from persecution or deprivation, arrest and search can be limited only on the grounds established by law;

- Right to movement, travel or reside in abroad can be restricted only on the ground of national security and public order (Online Web; Human Rights in Mongolia).

Mongolian constitution provides equal rights for both men and women. There is no discrimination on the basis of origin or sex. Constitution provides all civil, political,

economic and cultural rights to Mongolian women with men. According to constitution, “No person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and position, religion, opinion and education. Every one shall be a person before the law” (Art. 16.2). Thus state is authorized to combat any discrimination on the basis of sex and other things. Term which used for the Mongolian citizens is ‘All Person’ or ‘The Citizens’ which shows that all men and women are equal in eyes of the constitution. Mongolian women can exercise all rights and freedoms provided by the constitution. Women have right to speech, belief, faith and worship. They have right to go, move and reside in abroad like men. They are free to choose their occupation according to own will and ability. They have right to elect their representatives and also to be elected to state bodies (Constitution of Mongolia, 1992).

Constitution explains very clearly about the marital relationship of Mongolian citizens. According to constitution, “men and women shall enjoy equal rights in political, economic, social, cultural fields and in family relationship. Marriage shall be based on the equality and mutual consent of the spouses who have reached the age determined by law” (Art. 16.11). It indicates that there is no external force is authorized to interfere in the matters of family relationships or marriages of any individual crossed the age limit determined by the law. In 1981 Mongolia ratified the convention on the elimination on the all forms of discrimination against the women, which shows the seriousness of Mongolia about women’s issues (Pandey, 2016)

Children’s rights are most important in this pro humanitarian world system. Being a democratic state Mongolia provides all fundamental rights to the children according to international norms. In today’s Mongolia children right is a one of the most debatable and serious issue. Children have right to exercise almost civil rights as such right to life, liberty, healthy and free environment, safety and travel within the country. Few special provisions are only for the children in Mongolian constitution. Constitution describes very clearly that children have right to education and it is responsibility of the state to provide basic education free of cast to the all children. Constitution provides all opportunity to all its citizens to participate in creative work in artistic, cultural and scientific fields.

According to the constitution, “The state shall

protect the interest of the family, motherhood and the child” (Art. 16.11). Thus after marriage, it is primary duty of the state to protect the family and to provide all suitable conditions which he needs for the survival. On the issue of children’s rights, Mongolian government looks very serious since the independence. On the domestic level, Mongolian government enacted various laws in the protection of children’s rights. Mongolia ratified various international treaties concerning to the protection of children’s rights. Mongolia is signatory body of the ‘Convention on the Rights of the Child’ in United Nations and many other international institutions, NGOs and other legitimate bodies working for the children’s rights.

Despite these national and international provisions the cases of the violations of the children’s rights can be seen easily in Mongolia. On the one side Constitution is protecting children’s rights but on another side violation of Children’s rights is continue too, due to various factors. Children trafficking, drug addiction in children and child labour in various sectors of the government and private are the serious problems of the children in Mongolia. After 1992 Mongolian government is maintaining the status of the children in the state day by day. Mongolian government is making all possible efforts for the betterment of the children’s status. In 2015, Mongolia made a judicious advancement in efforts to eradicate the worst form of child labour. The Government appointed 41 new labour inspectors and built a risk evaluation checklist to help investigators exactly identify victims of human trafficking, as well as child victims (Constitution of Mongolia, 1992)

Mongolian Constitution restricts all kind of discrimination on the basis of caste, race, religion, sex, language, social status and property. According to the constitution, “Every one shall be a person before the law” (Art. 14.2). Minorities in Mongolia are exercising all civil, political, economic and cultural rights. Mongolia is home of more than ten ethnic minorities. Minorities in Mongolia are free to choose their occupation, to exercise own culture and to practice and belief in any religion according to own will. Minorities are free to get education in their own tongue.

Main ethnic groups in Mongolia are; Khalkh, Kazak, Dorvod, Bayad, Buryat and Zakhchin. Most of the nomads live in western Mongolia. Darkhad is an ethnic group of Mongolia lives in northern Mongolia and practices Shamanism. Chinese, Russians, Kazak are ethnic minorities of Mongolia. Constitution provides equal rights

for all but at many times discrimination with minority people can be seen easily. Discrimination against sexually minorities like Lesbian, Gay, Bisexual and Transgender persons is common in public and private sectors. Peoples living with HIV/AIDS faced discrimination in the society and in his own family various times. Violence against the women is serious issue in Mongolia. Sex workers are in minority in the state and number of the sex workers is increasing rapidly. Sex workers face socio-economic problems often (Mongolian Minorities Report, 2010).

### Conclusion:

There is no space for discrimination in Mongolian constitution on the basis of minority and majority. Constitution provides equal rights for all. Constitution describes very clearly that every individual residing in Mongolia has equal rights and is equal before the law. Mongolian government is doing all possible efforts to eradicate all kind of discrimination through the various national and international laws. On the domestic level constitution restricts all kind of discrimination against minorities. Government signed various treaties to combat discrimination against minorities.

### REFERENCES

- Constitution of Mongolia (2001), "Mongolia's Constitution 1992 with amendments through 2001", *Constitute*, [Online: Web] Accessed 10 October 2019 URL: [https://www.constituteproject.org/constitution/Mongolia\\_2001.pdf?lang=en](https://www.constituteproject.org/constitution/Mongolia_2001.pdf?lang=en)
- Erdene, B. Khash (2016), "Battle of puppets", *The UB Post*, Ulaanbaatar, [15<sup>th</sup> April 2016].
- Falk, Richard A. (1981), *Human Rights and State Sovereignty*, New York & London: Holmes & Meier.
- National Human Rights Commission of Mongolia Act (2000), [Online: web] Accessed 22 October 2019 URL: <http://national-human-rights-commission-of-mongolia-act.pdf>
- NHRC of Mongolia (2015), "*14th Status Report on Human Rights and Freedoms in Mongolia*," Ulaanbaatar.
- Pandey, Jyoti (2016), "Socio-Economic and Political Status of Women in Mongolia", in Sharad K Soni (edi.) *Mongolia Today: Internal Changes and External Linkages*, New Delhi: Pentagon Press.
- Pathak, Vineeta (2009), "Promoting Human Rights: The UN Record", *The Indian Journal of Political Science*, 70 (1): 151-164.

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