

# MONGOLIA 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Mongolia is a multiparty parliamentary democracy governed by a democratically elected government. The 2017 presidential election and 2016 parliamentary elections were considered free and fair, although some observers expressed concern during the presidential election about allegations of vote-buying and candidates' involvement in corruption.

The National Police Agency and the General Authority for Border Protection, which operate under the Ministry of Justice and Home Affairs, are primarily responsible for internal security. The General Intelligence Agency, whose director reports to the prime minister, assists these two agencies with internal security. The armed forces report to the Ministry of Defense and assist internal security forces in providing domestic emergency assistance and disaster relief. Civilian authorities maintained control over the security forces.

Significant human rights issues included: threats against the independence of the judiciary; harsh prison conditions; the existence of criminal libel laws; acts of official corruption; violence or threats of violence targeting lesbian, gay, bisexual, transgender, or intersex persons; and forced child labor.

Government efforts to punish officials who committed human rights abuses were inconsistent.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The law prohibits such practices. Nevertheless, the National Human Rights Commission (NHRC) and other nongovernmental organizations (NGOs) reported some prisoners and detainees were subjected to unnecessary force and cruel, inhuman, or degrading treatment or punishment, particularly to obtain confessions.

Responsibility for investigating allegations of torture and abuse is tasked by the prosecutor's office to either local police or the Independent Authority Against Corruption (IAAC), with the IAAC generally responsible for higher-profile cases. According to the NHRC, as of September 1, there were 21 complaints of torture, including 14 complaints against police officers, two against IAAC officers, and two against prison officials. As of September 1, the IAAC had opened 37 torture investigations: 23 it referred back to the prosecutor's office due to insufficient evidence, 12 remained under active investigation, one was sent to court for prosecution, and one was transferred to the relevant government body due to lack of IAAC jurisdiction.

The IAAC continued investigating the role of the former head of the General Intelligence Agency, the former deputy prosecutor general, and seven other officials in the alleged 2017 torture of suspects convicted of murder in connection with the 1998 assassination of Zorig Sanjaasuren, a leader of the country's democratic revolution.

The NHRC, NGOs, and defense attorneys reported that, in an attempt to coerce or intimidate detainees, authorities sometimes threatened detainees' families, transferred detainees repeatedly, or placed them in detention centers far from their homes and families, making access to legal counsel and visits by family members difficult. Human rights NGOs and attorneys reported obstacles to gathering evidence of torture or abuse. For example, although many prisons and detention facilities had cameras for monitoring prisoner interrogations, authorities often reported the equipment was inoperable at the time of reported abuses.

Under the criminal code, all public officials are subject to prosecution for abuse or torture, including both physical and psychological abuse. The maximum punishment for torture is a five-year prison sentence or life in prison if the victim dies as a result of torture. Although officials are liable for intentional infliction of severe bodily injury, prosecutions of this crime were rare. The law states that prohibited acts do not constitute a crime when committed in accordance with an order given by a superior in the course of official duties. The law provides that the person who gave an illegal order is criminally liable for the harm caused, but

prosecutions were rare. According to the NHRC, prosecutors, and judges, the law effectively provides immunity to officials allegedly engaged in coercing confessions at the behest of investigators or prosecutors. The NHRC also indicated authorities sometimes abandoned complaints of alleged psychological torture either for lack of evidence or because the degree of injury could not be determined. Moreover, witnesses were generally themselves detainees or prisoners and were under great pressure not to testify, including by threats against family or of additional charges with potentially longer sentences.

As of September 1, the IAAC had received one complaint of rape by police or correctional officials, which it sent back to the prosecutor's office for referral to the relevant related government body due to lack of IAAC jurisdiction.

### **Prison and Detention Center Conditions**

Conditions in prisons and detention centers were often harsh due to lack of investment in the prison system; inadequate health care, sanitation, and food; poor infrastructure; and lack of security and control.

Physical Conditions: Authorities assigned male prisoners a security level based on the severity of their crimes and held them in a prison of the corresponding security level. There was only one prison for women, with separate facilities for different security levels, as well as a facility for female prisoners with infant children. Authorities held pretrial detainees in separate facilities from convicted prisoners.

The 23 prisons and 26 pretrial detention centers administered by the General Executive Agency of Court Decisions (GEACD) were generally not overcrowded. Nonetheless, NGOs and government officials reported that in the five older pretrial detention centers in rural areas, insufficient medical care, clothing, bedding, food, potable water, heating, lighting, ventilation, sanitary facilities, and accommodations for persons with disabilities were often problems. Conditions in some police-operated alcohol detoxification centers were poor.

The GEACD reported seven deaths in prisons and three deaths in pretrial detention facilities as of September 1. According to the GEACD, 31 prisoners had contracted tuberculosis as of September 1. The GEACD indicated it provided funding for a new facility to treat prisoners with tuberculosis. Correctional officials routinely released terminally ill patients shortly before death, which NGOs alleged led to misleadingly low prisoner death statistics.

On February 23, former Supreme Court judge Ch. Byambaa died at pretrial detention center No. 461, where she had been detained for 48 hours on suspicion of involvement in a bribery scheme related to a silver mine. The GEACD stated her death was a suicide. Investigations into officers responsible for monitoring Byambaa when she was in detention continued.

Administration: The Prosecutor General's Office monitors prison and detention center conditions. The Prosecutor General's Office and the NHRC conducted multiple scheduled, unplanned, and complaint-based inspections of prisons, pretrial detention centers, and police detention centers.

Independent Monitoring: The government allowed access by independent nongovernmental observers and the NHRC, but authorities sometimes limited the areas observers could visit.

Improvements: According to the NHRC chief commissioner, conditions generally improved in the country's 23 prisons and 26 pretrial detention centers as a result of building renovations.

#### **d. Arbitrary Arrest or Detention**

The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. Government agencies generally observed these requirements. The General Intelligence Agency sometimes detained suspects for questioning without charge, but the criminal code requires that a prosecutor supervise all detention.

#### **Arrest Procedures and Treatment of Detainees**

An evidence-based, prosecutor-approved warrant is generally required to arrest a suspect on criminal grounds. Within 24 hours of an arrest, a prosecutor must present a request stating the grounds and reasons for the arrest to a judge, who must decide within 48 hours whether to prolong the detention or release the suspect. The arresting authority must notify a suspect's family within six hours of an arrest. A "pressing circumstances" exception in the law allows police to arrest suspects without a warrant. Examples of exceptions include murder or grave bodily injury, serious property damage, hot pursuit of a fleeing suspect, and suspicion that destruction of evidence would occur. In such cases a prosecutor must approve the arrest within 24 hours, and a judge must approve the arrest within

the normal 48-hour period. If 72 hours pass after an arrest and a judge has not made a decision, police must release the suspect. Upon release, authorities must inform the suspect of the reasons for the arrest and detention.

The NHRC received seven complaints of illegal arrest, arbitrary detention, and extended imprisonment as of September 1. It reported that when conducting investigations, investigative agencies occasionally detained suspects without judicial authorization, sometimes secretly, and police employed such practices despite the availability of other methods of restraint, including bail, another person's personal guarantee, and military surveillance. The personal guarantee system allows relatives to vouch for an accused family member. Unlike bail, the system does not involve pledged security in exchange for release. This system is available for all crimes, although authorities usually applied it to those accused of less serious offenses.

Authorities generally charged and informed detainees of the charges promptly and advised them of their right to counsel. Maximum pretrial detention with a court order is 18 months. Detainees generally had prompt access to family members, although repeated transfers or detention in remote locations undermined this right.

A detainee has the right to an attorney during pretrial detention and all subsequent stages of the legal process, including after sentencing. If a defendant does not engage an attorney, the government must appoint one if the defendant has a physical or mental disability that would hinder self-defense, is a minor, is not proficient in the Mongolian language, or has a conflict of interest with the defense counsel or other defendants. The law does not require the government to provide a lawyer for an indigent defendant. Detainees were generally aware of their right to legal counsel, but misperceptions limited their use of this right. For example, detainees were frequently unaware they could exercise this right from the start of the legal process and frequently did not assert it unless and until their cases reached trial.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, but NGOs and private businesses reported that judicial corruption and third-party influence continued. Courts rarely entered not guilty verdicts or dismissed criminal charges over the objection of prosecutors, even when full trials had produced no substantial evidence of guilt. Courts often returned criminal cases to prosecutors when

acquittal appeared more appropriate. Consequently, some serious criminal cases cycled for years between prosecutors and the courts without resolution.

### **Trial Procedures**

The law provides for the right to a fair and public trial without undue delay, and the judiciary generally enforced this right. Passage by parliament on March 27 of amendments to the Law on the Legal Status of Judges, the Law on Public Prosecutor's Office, and the Anticorruption Law weakened the independence of the judiciary. The amendments gave the National Security Council, which comprises the president, prime minister, and speaker of the parliament, the authority to: (1) recommend the suspension of senior judges, subject to the approval of the Judicial General Council; (2) recommend the dismissal of the prosecutor and deputy prosecutor general; and (3) recommend the dismissal of IAAC officials, subject to approval of the parliament. The parliament cited national security concerns to justify adopting the amendment without first submitting it to a hearing and public consultation as required under normal legislative procedure. On March 28, the chief justice of the Supreme Court was suspended, and the prosecutor general and the deputy prosecutor general were dismissed. In May the head and deputy head of the IAAC were dismissed, and in June another 17 judges were suspended.

Defendants are presumed innocent and have the right to be informed of the charges against them and to a fair, timely, and public trial. Courts provide free interpretation services as needed, including sign language interpretation, unless a court decides to recover procedural expenses from a defendant found guilty. The law also extends to all defendants the right to be present at their own trial in the court of first instance (but not during appeals); to communicate with an attorney of their choice (or one provided at public expense); to receive adequate time and facilities to prepare a defense; to confront witnesses; to present one's own witnesses and evidence; not to be compelled to testify or confess guilt; and to appeal. NGOs and observers reported that authorities sometimes did not observe these rights and that bribery of judges, prosecutors, and expert witnesses sometimes contributed to unwarranted convictions, dismissals, or reductions of sentences.

Procedural due process errors and inconsistencies often affected trials. Although the number of government-provided defense lawyers was adequate, their quality and experience were inconsistent, and many defendants lacked adequate legal representation. Judges often relied on confessions with little corroborating

evidence. Furthermore, NGOs reported witness intimidation by government authorities and police, limited public access to trials (often due to lack of space), a lack of transparency in courts' decision-making processes, and a low level of awareness regarding new criminal and procedural laws.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Administrative and judicial remedies are available for alleged human rights violations. The government sometimes failed to enforce court orders pertaining to human rights.

### **Property Restitution**

According to NGOs, seminomadic herders reported some private and government-owned mining interests interfered with their access to traditional pasturelands. Some herders reported they were forced to relocate after their pastureland was sold and mining companies denied them access to water wells. In one case the government confiscated land that had been illegally seized by a mining company, returned it to state ownership, and made it available for use by local herders.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The law provides for freedom of expression, including for the press, and the government generally respected this right. The government imposed content restrictions in some instances, licensing occasionally proved problematic, and there was reported harassment of journalists.

Press and Media, Including Online Media: Globe International, a local NGO specializing in freedom of the press and media, reported continued pressure from police, politicians, and large business entities on local media and press outlets. The ownership and political affiliations of media often were not disclosed to the public, and in a 2018-19 survey by Globe International, seven of 10 journalists reported that at least once in their career state officials did not respond to their requests for information that by law should have been publicly available.

Violence and Harassment: Some journalists reported they faced violence, harassment, or intimidation by police. For example, according to a Globe International survey, 67 percent of journalists said they had experienced some form of threat or intimidation in connection with their reporting at least once in their career.

Censorship or Content Restrictions: Communications Regulatory Commission (CRC) regulations on digital content and television and radio service impose content restrictions in broad terms, for example on extreme violence. The government appoints members of the CRC, which grants television and radio broadcast licenses without public consultation. This process, together with a lack of transparency during the license-tendering process, inhibited fair access to broadcast frequencies and benefited those with political connections. This also contributed to some self-censorship by journalists.

Libel/Slander Laws: The law treats libel and slander as petty offenses, except during an election campaign period (typically 18 days), when they are treated as criminal offenses. Libel and slander cases, when prosecuted as petty offenses, are punishable by fines ranging from two million to 20 million tugriks (\$730 to \$7,300). When prosecuted as criminal offenses, they are punishable by fines ranging from 450,000 to 5.4 million tugriks (\$164 to \$1,970), or imprisonment from one month to one year. If a media organization is found guilty of libel or slander during an election campaign period, its license can be suspended for six months.

The law allows media organizations to seek redress against a person who, by threats of violence, attempted bribery, or other means of intimidation, seeks to compel them to withhold critical information about that person. In such cases the media organization may pursue criminal charges or file a civil complaint against the alleged offender. If convicted, that person is subject to a fine of 450,000 to 2.7 million tugriks (\$164 to \$985), revocation of the right to travel from one to six months, and one to six months' imprisonment.

Press representatives and individuals who had a large social media following but were not associated with a media organization faced libel complaints by government authorities and private persons or organizations. Globe International expressed concern about efforts by some government authorities to make all libel and slander cases criminal offenses. In July the President's Office sued a civil rights activist for defamation based on her critical social media postings. According to Globe International, government officials increasingly used defamation lawsuits against journalists and independent social media personalities.

### **Internet Freedom**

By law individuals and groups may engage in the peaceful expression of views on the internet. The government maintained a list of blocked websites and added sites to the list for alleged violations of relevant laws and regulations, including those relating to intellectual property. Through the end of September, the government had blocked an additional 44 websites.

A CRC regulation places broad restrictions on inappropriate content without defining objectionable content explicitly. The regulation requires websites with heavy traffic to use filtering software that makes publicly visible the internet protocol addresses of those commenting or sharing content.

In September police opened investigations into two prominent social media users, reportedly based on complaints from another government agency and in response to posts they had made in advance of an official visit to the country by President Putin of Russia. The two users reported official intimidation and threats, but their social media accounts remained active.

### **Academic Freedom and Cultural Events**

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

#### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

#### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

In-country Movement: In November authorities lifted an order that had suspended migration to Ulaanbaatar. The suspension had aimed to curb air and environmental pollution and to ease traffic. While in effect, the order had exempted persons traveling to Ulaanbaatar for medical treatment or for work for longer than six months.

Foreign Travel: Under the criminal code, at the request of the Prosecutor General's Office, courts can ban the departure of persons who are plotting criminal activity. The law requires that those subject to an exit ban receive timely notification. Authorities did not allow persons under exit bans to leave until the disputes leading to the bans were resolved administratively or by court decision, and bans may remain in place for years. According to reports, 500 persons, including several foreign residents, were banned from leaving the country in 2018, and the practice continued during the year.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to UNHCR-recognized refugees, asylum seekers, and other persons of concern.

Access to Asylum: The law provides for granting asylum, and the government provided limited protections to foreign residents in the country while UNHCR adjudicated their refugee claims. The law establishes deportation criteria and permits the Agency for Foreign Citizens and Naturalization (the country's immigration agency) to deport asylum seekers who it deems do not qualify.

Employment: The law does not afford a specific legal status to refugees and asylum seekers. Authorities usually treated them as irregular migrants and did not issue them work permits.

Access to Basic Services: Because the law does not provide for refugee status, asylum seekers generally did not have access to government-provided basic services such as health care and education. Refugees and asylum seekers could access private medical facilities with UNHCR support.

### **g. Stateless Persons**

Not applicable.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: The most recent national elections were the 2017 presidential election and the 2016 parliamentary elections. In a 2017 report, an Organization for Security and Cooperation in Europe (OSCE) limited election observation mission assessed the presidential election as orderly and efficient. The mission, however, noted allegations of vote-buying and candidates' involvement in corruption during the presidential election. The OSCE noted there was legal uncertainty surrounding the first-ever presidential runoff in 2017 because the electoral legal framework contained few runoff provisions. While the General Election Commission issued clarifying regulations in a timely manner, there was a widespread perception that political parties blurred the line between governing and campaigning during nonelection periods.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. According to the general election law, at least 20 percent of candidates nominated by a political party or coalition for local and national political office must be women; political parties generally complied with this requirement. For example, in the 2016 parliamentary election, 16 of 76 (22 percent) of the candidates nominated by the Mongolian People's Party were women.

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not always implement the law effectively, and corruption continued at all levels. Some officials engaged in corrupt practices with impunity. The government implemented the third year of a six-year action plan, the National Program Combatting Corruption, adopted in 2016. The criminal code contains liability provisions for corruption and corruption-related offenses for public servants and government officials. For example, the code dictates that those sentenced for corruption may not work in public service.

On March 27, the parliament adopted amendments to the Anticorruption Law (see section 1.c.).

The criminal code offers immunity from punishment to anyone who reported they bribed an official at the official's request. In addition, the law criminalizes the misuse of an official position to offer or give preference to close associates or family members when awarding contracts. Nonetheless, private enterprises reported instances in which government employees pressured them to pay bribes to act on applications, obtain permits, and complete registrations.

Members of parliament are generally immune from arrest and searches of their homes and offices during their tenure, but this immunity may be removed by court order, and there is no immunity from criminal investigation. Members of parliament who are caught at the scene of a crime with damaging evidence against them enjoy no immunity.

Factors contributing to corruption included conflicts of interest, lack of transparency, lack of access to information, an inadequate civil service system, and weak government control of key institutions. The government took measures to improve transparency, including implementing electronic tenders for most government procurement and contracting.

The IAAC is the principal agency responsible for investigating corruption, assisted at times by the National Police Agency's Economic Crime Division of the Criminal Police Department for more routine cases. The IAAC has investigatory responsibility for corruption and crimes committed by military personnel and on-duty police officers. Although questions about the IAAC's political impartiality persisted, the public viewed the agency as effective. It utilized a standard operating procedure to guide the handling of investigations of corruption

allegations and maintained a blacklist of companies that violated government procurement rules. The IAAC conducted 64 training sessions for 4,947 public officials and regularly sponsored public awareness campaigns on television, in social media, and in press conferences that highlighted its work.

Corruption: Corruption at all levels of government remained widespread. The politicization of anticorruption efforts presented an obstacle to effectively addressing corruption. In January, following November 2018 allegations by investigative journalists that at least 14 members of parliament (including two cabinet ministers) and other high-level officials had illegally channeled millions of dollars from a government fund to families and friends, the Parliamentary Immunity Subcommittee rejected a request by the Prosecutor General's Office to deny four members of parliament immunity from investigation in connection with the scandal. The same month parliament expelled the speaker due to his alleged involvement in a separate 2016 corruption scandal. In July a former energy minister was convicted of abuse of power and sentenced to four years' imprisonment for violating procurement regulations and accepting nearly \$100,000 in bribes.

Financial Disclosure: The law requires civil servants and elected officials to report assets and outside sources of income for themselves, their spouses, parents, children, and live-in siblings. It also aims to prevent conflicts of interest between official duties and the private interests of those in public service roles, and to regulate and monitor conflicts of interest to specify that officials act in the public interest. The law requires candidates for public office to submit financial statements and questionnaires on personal business interests.

Public officials must electronically file a private interest declaration with the IAAC within 30 days of appointment or election and annually thereafter during their terms of public service. The law provides that such declarations be accessible to the public and prescribes a range of administrative sanctions and disciplinary actions in case of violation. Violators may receive formal warnings, face salary reductions, or be dismissed from their positions. The IAAC is required to review the asset declarations of public servants, including police officers and members of the military. According to the IAAC, public officials are required to file the documentation in a timely manner or be subject to fines, dismissal from their positions, or both. The IAAC made public the financial disclosure short forms for approximately 36,794 of the country's public officials. The IAAC received a 20 percent increase in complaints related to alleged conflicts of interest.

Officials with authority to spend government funds are required to report expenditures and audit results on their ministry and agency websites. All transactions more than one million tugriks (\$365) are subject to reporting. Plans for budgets, loans, or bonds must be registered with the Ministry of Finance for monitoring and tracking, even after the originating officials have left their positions.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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

Amnesty International has received reports of discrimination, intimidation, harassment, police intimidation, and stigmatization against human rights organizations. Progovernment actors sometimes characterized such NGOs as “undesirables,” “troublemakers,” “foreign agents,” or “opponents of the state.”

Government Human Rights Bodies: The NHRC is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NHRC consists of three senior commissioners nominated by the president, the Supreme Court, and parliament, respectively, for six-year terms. Officials reported government funding for the NHRC, provided by parliament, remained inadequate, and inspection, training, and public awareness activities were entirely dependent on external funding sources. The NHRC consistently supported politically contentious human rights issues, such as the rights of lesbian, gay, bisexual, transgender, or intersex (LGBTI) individuals, persons with disabilities, and ethnic minorities.

There was some collaboration between the government and civil society in discussing human rights problems. NGOs and international organizations noted, however, that government officials were less open to including NGOs in the legislative drafting process and in the preparation of official reports on social and human rights problems.

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

#### **Women**

Rape and Domestic Violence: The criminal code criminalizes sexual intercourse through physical violence or threat of violence and provides for sentences of one to 20 years' imprisonment or life imprisonment, depending on the circumstances. The criminal code criminalizes spousal rape. Domestic violence is also a crime, for which perpetrators can be punished administratively or criminally, including in the latter case by a maximum of two years' imprisonment. The government maintains a nationwide database of domestic violence offenders, and those who commit a second domestic violence offense are automatically charged under criminal law.

The nongovernmental National Center against Violence (NCAV) reported that police response to domestic violence complaints improved. The law provides alternative protection measures for victims of domestic abuse, such as restraining orders.

Despite continued attention, domestic violence remained a serious and widespread problem. The NCAV reported increased reporting of domestic violence by third parties. Combating domestic violence is included in the accredited training curriculum of the police academy and in all police officer position descriptions.

The NCAV expanded its activities designed to support victims, including training for medical personnel who delivered services to deaf victims of domestic violence.

According to the NCAV, there were 14 shelters and 14 one-stop service centers for domestic violence survivors run by a variety of NGOs, local government agencies, and hospitals. The one-stop service centers, located primarily at hospitals, provided emergency shelter for a maximum of 72 hours. The relatively small number of shelters located in rural areas presented a challenge for domestic violence victims in those areas.

Sexual Harassment: The criminal code does not address sexual harassment. NGOs said there was a lack of awareness and consensus within society of what constituted inappropriate behavior, making it difficult to gauge the extent of the problem. As of September 1, the NHRC had received 43 sexual harassment complaints. Upon receiving such a complaint, the NHRC may perform an investigation, after which it may send a letter to the employer recommending administrative sanctions be levied against the accused party.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides the same legal status and rights to women and men, including equal pay for equal work and equal access to education. These rights were generally observed, although women faced discrimination in employment. As of September 1, the NHRC had received seven complaints of discrimination. It does not disaggregate cases of discrimination on the basis of gender, race, religion, or sexual orientation. Government statistics report a pay disparity of about 20 percent during the first half of the year.

The law sets mandatory minimum quotas for women in the government and political parties. It also outlaws discrimination based on sex, appearance, or age, although some NGOs noted authorities did not enforce this provision. The law provides that women must comprise at least 15 percent of political appointees to government positions at the national, provincial, and capital city levels; 20 percent at the district level; and 30 percent at subdistrict levels. The law also requires that women must represent at least 25 percent of a political party's senior leadership. Women were underrepresented at the highest levels of government; only one of the country's 16 cabinet ministers is a woman.

In most cases the divorced wife retained custody of any children; divorced husbands often failed to pay child support and did so without penalty. Women's activists said that because family businesses and properties usually were registered under the husband's name, ownership continued to be transferred automatically to the former husband in divorce cases.

No separate government agency oversees women's rights, but the National Committee on Gender Equality, chaired by the prime minister and overseen by the Ministry of Labor and Social Protection, coordinates policy and women's interests among ministries, NGOs, and gender councils at the provincial and local levels. The government's *National Program on Gender Equality 2017-21* and its related action plan seek the economic empowerment of women and equal participation in political and public life.

## **Children**

Birth Registration: Citizenship derives from one's parents. Births are immediately registered and a registration number issued through an online system jointly developed by the Ministry of Health, the National Statistics Office, and the State

Registration Agency. Failure to register could result in the denial of public services.

Child Abuse: The criminal code includes a specific chapter on crimes against children, including forced begging, abandonment, inducing addiction, engaging children in criminal activity or pornography, and the trafficking and abuse of children.

Child abuse was a significant problem and consisted principally of domestic violence and sexual abuse. The government's Family, Child, and Youth Development Authority (FCYDA) and the NCAV noted that reporting of child abuse increased following enactment of obligatory reporting laws. The FCYDA also noted its continued operation of a hotline to report child abuse, an emergency service center, and a shelter for child victims of abuse. The FCYDA also said it provided funding to an NGO in Ulaanbaatar to run additional shelters to which it referred child victims of abuse. According to an NGO, space was inadequate for the number of child abuse victims referred for long-term care.

Child abandonment was also a problem. Some children were orphaned or ran away from home because of neglect or parental abuse. Police officials stated they sent children of abusive parents to shelters, but some observers indicated many youths were returned to abusive parents. According to the NGOs, as of November 1, there were 1,067 children living in 31 childcare centers across the country. This number includes both child victims of abuse and orphans, as the FCYDA does not disaggregate the data. More children were referred to long-term care than there was space available.

Each province and all of Ulaanbaatar's district police offices had a specialized police officer appointed to investigate crimes against, or committed by, juveniles. The international NGO Save the Children implemented a program that facilitates annual--and sometimes more frequent--interagency meetings on preventing child abuse at local administrative units across the country. Police were active in campaigns to improve the safety of children and broadcast a variety of public-service announcements through television and radio programs and commercials.

Early and Forced Marriage: The legal minimum age for marriage is 18, with court-approved exceptions for minors age 16 to 18 who obtain the consent of parents or guardians.

Sexual Exploitation of Children: Although illegal, the commercial sexual exploitation of children younger than 18 was a problem. According to NGOs there were instances in which teenage girls were kidnapped, coerced, or deceived and forced to work in prostitution. The minimum age for consensual sex is 16. Violators of the statutory rape law (defined as sexual intercourse with a person younger than 16 not involving physical violence or the threat of violence) are subject to a maximum penalty of five years in prison. Those who engaged children in prostitution or sexual exploitation are subject to a maximum penalty of 20 years in prison, or life imprisonment if aggravating circumstances are present. Under the criminal code, the maximum penalty for engaging children in pornography is eight years' imprisonment. The NCAV reported it had received 16 complaints related to child sexual abuse and domestic violence as of November 1. Ten of the cases were referred to the courts, five were referred to the FCYDA, and one case was pending.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish population was very small, and there were no reports of anti-Semitic acts. Neo-Nazi groups active in the country tended to target other Asian nationalities and not Jews.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities, defining these as restrictions due to permanent impairment of the body or intellectual, mental, or sensory capacities. Discrimination in employment against persons with disabilities was common, despite the law.

Most government buildings remained inaccessible to wheelchairs, and only a few intersections in Ulaanbaatar were equipped with auditory crosswalks to aid pedestrians with visual impairments.

There is no explicit prohibition of discrimination in education, but the law charges the government with creating conditions to provide students with disabilities an education. Children with disabilities are by law allowed to attend mainstream schools but faced significant barriers to education. Schools often lacked trained staff and the infrastructure to accommodate children with disabilities. In May the Ministry of Education, Culture, Science, and Sports issued an order requiring the retrofitting of mainstream schools to ensure inclusive education and accessibility for children with disabilities. Although the majority of children with disabilities entered the public-school system at the appropriate age, the dropout rate increased as the children aged. Children with disabilities in rural areas were more likely to drop out of school because most schools for students with disabilities were in Ulaanbaatar.

Although the law mandates standards for physical access to new public buildings and a representative of persons with disabilities serves on the state commission for inspecting standards of new buildings, most new buildings were not constructed in compliance with the law. Public transport remained largely inaccessible to persons with disabilities. Emergency services were often inaccessible to blind and deaf persons because service providers lacked trained personnel and appropriate technologies. Moreover, domestic violence shelters were not accessible to persons with disabilities.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The criminal code prohibits discrimination based on sexual orientation, gender identity, nationality, language, race, age, gender, social status, professional position, religion, education, or medical status. Violators are subject to a maximum penalty of five years' imprisonment. As of September 1, at least one case was known to have been prosecuted under the law.

LGBTI individuals faced violence and discrimination both in public and at home based on their sexual orientation or gender identity. There were reports LGBTI persons faced greater discrimination and fear in rural areas than in Ulaanbaatar due to less public awareness and limited online media accessibility in rural areas. LGBT Centre, an NGO, received reports of violence against LGBTI persons, most

involving young persons coming out to their families or whose families discovered they were LGBTI.

An NGO noted that despite increased police awareness of abuses faced by the LGBTI community and capacity to respond to problems affecting LGBTI persons, there were still reported cases involving police harassment of LGBTI victims of alleged crimes. Authorities frequently dismissed charges when a crime victim was an LGBTI person.

In September, Bosoo Huh Mongol, a nationalist group, posted a live video on Facebook identifying members of the transgender community and threatening them with physical violence and public exposure. After the National Police Agency conducted a criminal investigation, the leader of the group was arrested in Uvs Province and sent to detention for 30 days. The case remained pending with a court of first instance in Ulaanbaatar as of November 13.

There were reports of discrimination against LGBTI persons in employment.

### **HIV and AIDS Social Stigma**

Although there was no official discrimination against those with HIV/AIDS, some societal discrimination existed. The public generally continued to associate HIV/AIDS with same-sex sexual activity, burdening victims with social stigma and potential employment discrimination.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements. The law provides for the rights of all workers except those employed in essential services to participate in union activities without discrimination, conduct strikes, and bargain collectively. The law requires reinstatement of workers fired for union activity.

The law bars persons employed in essential services--defined as occupations critical for national defense and safety, including police, utilities, and transportation services--from striking, and it prohibits third parties from organizing

strikes. The law prohibits strikes unrelated to matters regulated by a collective agreement.

Laws providing for the rights of collective bargaining and freedom of association generally were enforced. Penalties, largely fines, for violations of freedom of association and collective bargaining provisions were not sufficient to deter violations. Labor dispute settlement committees resolved most disputes between individual workers and management. These committees comprise representatives of the local government, the employer, and the employee, who is joined by a representative of the Confederation of Mongolian Trade Unions (CMTU). The CMTU reported the court process was so lengthy many workers abandoned their cases due to time and expense.

The CMTU stated some employees faced obstacles, including the threat of salary deductions, to forming, joining, or participating in unions. Some employers prohibited workers from participating in union activities during work hours. The CMTU also stated workers terminated for union activity were not always reinstated. The CMTU further reported some employers took steps to weaken existing unions. For example, some companies used the portion of employees' salaries deducted for union dues for other purposes and did not forward the monies to the unions. The CMTU also reported some employers refused to conclude collective bargaining agreements.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor, except as part of a legally imposed sentence. The criminal code provides for a fine or imprisonment for forced labor offenses, but penalties were not sufficient to deter violations. The government did not effectively enforce the law.

There were isolated reports of forced labor, including forced child labor.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law does not prohibit all the worst forms of child labor. The law prohibits children younger than 14 from working. At age 14, children may, with parental and government permission, work a maximum of 30 hours per week, to acquire

vocational training and work experience. At age 15, children may establish a vocational training contract with permission from parents or guardians. According to a Ministry of Labor and Social Protection order, children younger than 18 may not work in hazardous occupations such as mining and construction; engage in arduous work; serve as jockeys during the winter (children may be jockeys beginning at age seven during other seasons); participate in cultural, circus, or folk art performances at night; work in businesses that sell alcoholic beverages; or engage in roadside vending. Despite these restrictions, children were commonly seen participating in horse racing, roadside vending, and other occupations in contravention of the order.

Authorities reported employers often did not follow the law, requiring minors to work in excess of 40 hours per week and paying them less than the minimum wage.

The criminal code's child protection provisions cover hazardous child labor, which is punishable by severe penalties that are not sufficient to deter violations due to ineffective enforcement. The government did not effectively enforce the law.

The government convenes a council on trafficking in persons on a monthly basis. Despite government programs to support the employment of adult family members, unemployment remains a problem.

Child labor, including cases of forced child labor, was suspected in many sectors, including hotels and restaurants, vehicle repair, manufacturing, petty trade, scavenging and forced begging, event or street contortionism (a local art form), and the illicit sex trade (see section 6, Children). The FCYDA and the General Agency for Specialized Inspection (GASI) conducted child labor inspections, including at artisanal mining sites, public markets, service centers, dumpsites, construction and transportation sites, and on farms.

International organizations continued to express concern about child jockeys in horseracing. Children commonly learned to ride horses at age four or five, and young children traditionally served as jockeys during the annual Naadam festival in races ranging from two to 20 miles. All jockeys including child jockeys are prohibited from working from November 1 to May 1, when cold weather makes racing more hazardous.

The regulations also require registration, adequate headgear, and chest protection, but despite greater government and public attention to safety, enforcement was

inconsistent. GASI reported that in sanctioned races during the year, there were 49,641 instances of a child competing in a race (children who raced more than once were counted multiple times). In these races, 550 children fell from horses, 166 were slightly injured, and 12 were seriously injured. The number of deaths was not reported, and races not sanctioned were not counted in these statistics. The FCYDA maintained an electronic database containing information on more than 10,325 child jockeys and collected biometric information to better track jockeys and prevent children younger than seven years from working as jockeys. In addition the Ministry of Labor and Social Protection established guidelines requiring the purchase and maintenance of an insurance policy for jockeys that costs 100,000 tugriks (\$37) and pays to jockeys or their surviving family members up to 20 million tugriks (\$7,300) in case of injury or death sustained during a race. Observers reported compliance with safety regulations at national races, but less satisfactory compliance at community and regional events. The government, however, only conducts child labor inspections at horse racing events once a year and must provide 48 hours' notice before conducting an investigation.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment and occupation based on nationality, language, race, age, gender, sexual orientation, sex or marital status, social origin or status, wealth, religion, ideology, education, or medical status. It also prohibits employers from refusing to employ a person with disabilities but provides broad exceptions, applying "unless the condition of such person prevents him from performing a specified activity or would otherwise be contrary to established working conditions at the workplace." The law prohibits employers from refusing employment to or dismissing an individual diagnosed with HIV/AIDS unless the condition makes it difficult to perform job duties. The law also prohibits women from working in occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health.

The government enforced the law in a limited manner, and discrimination occurred in employment and occupation based on sex and disability, as well as on sexual orientation, gender identity, and HIV status. Penalties were not sufficient to deter violations.

The law charges employers with taking steps to prevent sexual harassment in the workplace, including by establishing internal rules about sexual harassment and the redress of complaints, but provides no penalties. The NHRC reported poor knowledge of the law's sexual harassment provisions among both employers and employees.

The NHRC found employers were less likely to hire, promote, or provide professional development opportunities to women. There were also reports some employers refused to hire overweight persons, claiming they could not perform essential job functions.

Although the law requires workplaces with more than 25 employees to employ a minimum of 4 percent of persons with disabilities or pay a fine, NGOs reported a reluctance to hire them persisted, and many companies preferred to pay the fine. They also noted the government itself failed to meet the quota. Members of the disability community noted that, even when hired, the lack of accessible public transport made it difficult for persons with disabilities to hold a job (see section 6, Persons with Disabilities).

The labor ministry's Department for the Development of Persons with Disabilities is responsible for developing and implementing employment policies and projects for persons with disabilities. Government organizations and NGOs reported employers' attitude toward employing persons with disabilities had not improved and that many employers still preferred to pay fines to the Employment Support Fund maintained by the Ministry of Labor and Social Protection rather than employ persons with disabilities.

NGOs, the NHRC, and members of the LGBTI community reported companies rarely hired LGBTI persons who were open about their sexual orientation or gender identity, and LGBTI persons who revealed their status in the workplace frequently faced discrimination, including the possibility of dismissal. Illegally dismissed LGBTI persons rarely sought court injunctions to avoid disclosing their status and increasing the risk of discrimination.

Foreign migrant workers did not receive the same level of protection against labor law violations as the general population.

#### **e. Acceptable Conditions of Work**

The minimum wage was above the poverty line.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards, which apply equally to local and foreign workers. GASI noted many standards were outdated.

Labor inspectors assigned to GASI's regional and local offices are responsible for enforcement of all labor regulations and have the authority to compel immediate compliance. The government did not effectively enforce minimum wage, working hours, and occupational safety and health laws and regulations. Neither the penalties nor the number of inspectors was sufficient to enforce compliance. GASI reported its inspectors, faced with large investigative workloads, needed better training on investigative techniques and evidence collection. The number of labor inspectors was insufficient for the size of the country's workforce. Inspectors generally did not conduct inspections in the informal sector.

GASI acknowledged that fines imposed on companies for not complying with labor standards or for concealing accidents were insufficient to induce management to resolve problems. Moreover, safety experts responsible for labor safety and health were often inexperienced or had not received training. GASI lacks the authority to perform surprise inspections.

The law on pensions allows for participation by small family businesses and workers in the informal economy (such as herders) in pension and social benefit programs. These categories of workers were able to access health care, education, social entitlements, and an optional form of social security.

Many workers received less than the minimum wage, particularly at smaller companies in rural areas. Workers in the construction sector, in which work is constrained to a few months each year due to extreme winters, were sometimes pressured to work long hours, increasing the risk of accidents and injuries.

Many foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations.

Workers from the Democratic People's Republic of Korea were in the country at the beginning of the year, and the government enforced a series of deportations in compliance with relevant UN Security Council resolutions.

Reliance on outmoded machinery, poor maintenance, and management errors led to frequent industrial accidents, particularly in the construction, mining, and energy sectors. According to the NHRC, lack of proper labor protection and safety procedures made the construction sector particularly susceptible to accidents. The CMTU stated workers had limited awareness of their legal right to refuse to work in unsafe conditions.

GASI provided safety training to companies and private enterprises. According to GASI, the training resulted in a decrease in industrial accidents in accident-prone sectors such as light industry, food, health, and education. According to most recent data provided by GASI, 17 persons were killed in industrial accidents in 2016. Construction-related industrial accidents were especially deadly: according to GASI, over the previous 10 years, 246 persons were killed in such accidents. According to newspaper reports, four workers died in February at a gold mine, and there were other reports that cited industrial accidents.