



## 人权理事会

## 第二十三届会议

## 议程项目 3

增进和保护所有人权——公民权利、政治权利、  
经济、社会和文化权利，包括发展权

## 赤贫与人权问题特别报告员马格达莱纳·塞普尔韦达·卡尔 莫纳的报告

### 增编

### 对蒙古的访问(2012年12月3日至7日)\* \*\*

#### 概要

赤贫与人权问题特别报告员于2012年12月3日至7日对蒙古进行了正式访问，访问期间收集了关于赤贫人口处境以及该国主要减贫和发展政策影响的第一手资料。

在本报告中，特别报告员概述了蒙古在执行减贫措施和确保该国穷人权利方面面临的一般挑战。特别报告员重点阐述了受赤贫影响的最弱势群体所面对的具体困难和妨碍其充分享受权利的各种因素。特别关注的是获得社会保护、适足住房和诉诸司法的权利。特别报告员感到关切的是，尽管近年来取得了耀眼的增长率，但经济繁荣未惠及所有阶层。就在该国经济大为景气之时，不平等程度却很高。报告中承认新政府已采取一些重要步骤推行减贫措施，并提出若干建议供所有利益攸关者考虑。

\* 本报告的概要以所有正式语文分发。报告本身载于概要附件，仅以提交语文分发。

\*\* 迟交。

## Annex

[English only]

**Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, on her mission to Mongolia (3 to 7 December 2012)**

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## I. Introduction

1. At the invitation of the Government, the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, undertook a mission to Mongolia from 3 to 7 December 2012. During the visit, the independent expert collected first-hand information about the situation of people living in extreme poverty in order to conduct a human rights-based analysis of key public policies relating to poverty alleviation, development and social protection.

2. During her mission the Special Rapporteur met with various Government representatives from the Ministry of Foreign Affairs, Ministry of Population Development and Social Protection, Ministry of Economic Development, Ministry of Labour, as well as from a number of Government agencies, including the General Office for Social Welfare Services, General Office for Social Insurance, National Authority for Children, National Rehabilitation Centre and National Committee for Gender Equality.

3. The Special Rapporteur held meetings with the National Statistical Office, National Human Rights Commission, and representatives from international organizations, donor agencies, financial institutions and a range of civil society organizations. She also visited communities living in poverty in the Erden soum of Tuv province, Darieh and Unur areas of Bayanzürkh and Songino Khaïrkhán districts in Ulaanbaatar.

4. The Special Rapporteur wishes to extend her gratitude to the Government of Mongolia for its invitation and its full cooperation during the mission. She also extends her appreciation to the United Nations Country Team, in particular the Office of the Resident Coordinator, for its assistance both before and during the visit. She is very grateful to those interlocutors and members of civil society for their invaluable contribution to the mission. In particular, she is sincerely grateful to those who took the time to share their personal experiences of struggling with the plight of extreme poverty and social exclusion in Mongolia.

5. In the spirit of coordination and collaboration among human rights mechanisms, sections in this report relating to the human rights impact on the most vulnerable sectors of the population are complemented by the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, following its visit to the country in 2012.

## II. General context

6. In recent years Mongolia has rapidly risen to the status of a lower-middle-income country, with a national GDP of US\$8.558 billion in 2011.<sup>1</sup> The discovery of vast quantities of untapped mineral wealth combined with foreign investment in a number of massive mining projects and the projected extraction of coal in the southern region of the country is expected to triple the national economy by 2020.

7. The country has achieved impressive growth, with GDP increasing at an average annual rate of 10.6 per cent from 2000 to 2010. In 2011, and in the first quarter of 2012, the growth rate rose by an impressive 17 per cent and 16.7 per cent respectively.<sup>2</sup> However, despite the significant growth rate, economic prosperity has not been inclusive; in fact, it

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<sup>1</sup> World Bank, *Mongolia Quarterly Economic Update*, October 2012.

<sup>2</sup> *Ibid.*

has failed to reach the most vulnerable in society and has not translated into a significant reduction in poverty. Mongolia ranks 108 out of 186 countries in the 2013 Human Development Index.

8. According to official statistics, poverty has reduced in recent years from 39.2 per cent in 2010 to 29.8 per cent in 2011. However, available data indicates high levels of inequality, with consumption by the top 10 per cent of the population rating 7.7 times higher than that of the lowest 10 per cent of the population.<sup>3</sup>

9. During her visit, the Special Rapporteur witnessed the significant income inequalities affecting communities living in poverty and noted that as the gap widens, poverty is becoming entrenched, not only in rural areas, but also in urban centres. These inequalities raise human rights concerns and require immediate efforts in order to be rectified.

10. The Special Rapporteur recognizes the significant challenges facing the newly appointed Government of Mongolia in its endeavours to eradicate poverty. She welcomes the positive commitment it has already made during its short time in office in identifying the fight against poverty as one of its key focus areas going forward. Therefore, in the spirit of openness and cooperation, the Special Rapporteur encourages the State to consider the recommendations outlined in this report as a means of ensuring that poverty reduction policies, in particular social protection policies, respect, protect and promote the full enjoyment of human rights and give particular priority to people living in poverty.

### **III. Legal and institutional framework**

11. Chapter 2 of the 1992 Constitution of Mongolia enshrines a plurality of human rights and freedoms and establishes a political and legal environment for the effective enjoyment of such rights. It provides for the right of vulnerable groups to material and financial assistance and the right to equality between men and women “in political, economic, social, cultural fields and in family affairs.” The Constitution affords a specific commitment to the promotion and protection of human rights through the proactive role of the State (art. 19).

12. Mongolia has demonstrated its commitment to promoting and protecting human rights, as evidenced by steps taken to ratify most of the core international human rights instruments, improving their implementation at the domestic level, and engaging with various United Nations human rights mechanisms. It is particularly commendable that Mongolia was one of the first states to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights that has recently entered into force. Additional efforts must be made, however, to ensure that the legal framework is in line with international human rights standards and that Mongolia accedes to key international treaties to which it is not yet party.

13. The Constitution obliges the State to “fulfil in good faith its obligations under international treaties to which it is a party” and confirms that “the international treaties to which Mongolia is a party shall become effective as national legislation upon the entry into force of the laws or on their ratification or accession”.

14. The Constitution unambiguously states that no discrimination shall be enforced on the basis of social origins and economic situation (art. 14). However, the Special Rapporteur is concerned that substantial gaps remain with regard to discrimination in the

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<sup>3</sup> Mongolia, National Statistical Office, 2012.

legislation, such as prohibiting discrimination on the basis of sexual orientation, gender identity or health status. Moreover, there is no effective mechanism to ensure that victims of discrimination have access to a remedy.

15. In 2003, a National Human Rights Action Programme was approved by Parliament as a means of reiterating Mongolia's commitment to respecting human rights. In 2011, the Government conducted a comprehensive evaluation of the programme which identified irregularities in the implementation of international human rights treaties along with a lack of resources to enable the enforcement of human rights standards in the work place.<sup>4</sup>

## **IV. General challenges**

### **A. Gaps in policy implementation and lack of consistency**

16. For the most part, Mongolia has developed a robust legal framework for combating poverty and promoting human rights. However the Special Rapporteur received repeated reports regarding implementation gaps in almost all social policies, ranging from domestic violence to trafficking.

17. Over the last two decades, there has been a lack of consistency at the policy-making level, whereby legislation has been passed or social policies adopted by an outgoing Government, with the new incoming State structure either abolishing or failing to implement the laws or policies. The Special Rapporteur noted a distinct sense of frustration among civil society in this regard, particularly for those who had been involved at different stages in the development of a particular policy, only to be faced with a completely different structure following the election of a new Government.

18. Moreover, the Special Rapporteur found major flaws in the implementation of poverty reduction policies. For the most part, they have been implemented without any impact assessment, long-term vision, coherency or continuity, and often without financial and environmental sustainability. The eradication of extreme poverty requires long-term policies that specifically address the situation of those living in poverty through a comprehensive and coherent framework covering all domains of public policy and political action. Fragmentation and lack of coordination at the governmental level increase the likelihood that measures will be ineffective and the rights of people living in poverty will be infringed upon.

19. Of particular concern is the lack of systematic analytical research on the root causes of poverty in the country and the distinct lack of good quality poverty data over the years. The Special Rapporteur is disappointed that to date no State body has shown sufficient ownership and leadership in the fight against poverty and no one has been held accountable for the lack of progress. All these factors have greatly contributed to failure to achieve a significant reduction in poverty, despite the substantial amount of resources invested to this end.

20. The Special Rapporteur acknowledges that the Government is aware of these problems; nonetheless, she stresses the importance of implementing a multi-sectoral strategy and the need to establish regular mechanisms to ensure cross-sectoral coordination and accountability.

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<sup>4</sup> UNDP, Strengthening national human rights oversight capacity in Mongolia, Project document, 2012.

## **B. Corruption**

21. In 2010, the Universal Periodic Review of Mongolia identified corruption as a major cause of persistent inequality in the country, and expressed concern about the erosion of public services as a result. The Special Rapporteur welcomes the fact that Mongolia accepted a recommendation aimed at tackling corruption during the review (A/HRC/16/5, para. 84.32). She recognizes that important efforts have been made to combat corruption, including the adoption of a National Program for Combating Corruption, the National Anti-Corruption Council, the Law on Anti-Corruption, the ratification of the United Nations Convention against Corruption, the establishment of the Independent Authority Against Corruption and the adoption of the Law on Preventing Conflict of Interest in Public Service.

22. The State has recognized the important link between the fight against corruption and achieving development in the country by establishing the Mongolian Millennium Development Goal No. 9 on democratic governance and human rights.

23. Despite these notable achievements, the Special Rapporteur is concerned that efforts to combat corruption have not yet translated into any measurable improvements. According to Transparency International's Corruption Perception Index 2012, Mongolia ranks 94 out of 174 countries.<sup>5</sup> There are a number of factors hindering full control of corruption, such as a high degree of local government centralization, rapid urbanization resulting in an increasing need to improve local government legislation and conflicts of interest.<sup>6</sup>

24. While recognizing the commendable steps taken by the Government to tackle corruption, the Special Rapporteur wishes to emphasize that corruption can seriously undermine the capacity of the State to fulfil its responsibilities and disproportionately affect those living in poverty. The attempt to hold high-level authorities accountable for recent corruption scandals raised hopes about the State's commitment to fight corruption. Considering the large investment projects in the country, particularly in the mining sector, it is essential for Mongolia to implement a zero-tolerance policy against corruption and ensure accountability.

## **V. Situation of groups particularly vulnerable to poverty**

25. The Special Rapporteur identified groups that are particularly vulnerable to extreme poverty and which require specific initiatives to overcome the impact of economic deprivation and social exclusion.

### **A. Women**

26. As one of the first countries to ratify the Convention on the Elimination of All Forms of Discrimination against Women, Mongolia has developed a comprehensive legal framework to ensure the protection of women's rights in the country, including the introduction of laws, policies and programs to promote gender equality and address domestic violence. Still, additional efforts must be made to ensure implementation of these laws.

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<sup>5</sup> See <http://www.transparency.org/country#MNG>.

<sup>6</sup> United Nations Development Assistance Framework (UNDAF) 2012-2016, Mongolia, p. 63.

27. Although women actively participate in social and economic life in Mongolia, they have been significantly underrepresented in power-sharing and decision-making. The percentage of women members of Parliament dropped from 25 per cent in 1990 to 3 per cent in 2008<sup>7</sup> and then increased to only 14.5 per cent in 2012.<sup>8</sup> While this is a welcome development, the Special Rapporteur urges the State to employ measures to strengthen the participation of women in politics, particularly at the decision-making level. At least 30 per cent of the Mongolian Government must be made up of women decision-makers in order to achieve the Millennium Development Goal on gender equality.

28. It is estimated that the number of female-headed households increased from 10 per cent in 1998 to 15 per cent in 2008. These households are generally more vulnerable to poverty.<sup>9</sup> Due to the unpaid care work that they often do, female head of households are prevented from undertaking employment and this is particularly notable in rural and remote areas where access to child care is not always feasible.

29. Gender-based violence remains high and new forms of violence against women are on the rise, such as sexual harassment in the workplace and trafficking. While the Special Rapporteur acknowledges the establishment of a solid legal framework through the Law on Gender Equality (2011) and its upcoming implementing strategy, she is concerned about the persistence of deep-rooted stereotypes relating to the roles and responsibilities of women and men in the family and society (CEDAW/C/MNG/CO/7, paras. 23-24) which serve as an impediment to women's equal participation in economic and political life.

30. The Special Rapporteur received reports that domestic violence continues to be seen as a private matter in Mongolia, including among law enforcement personnel. Prosecution rates are low and there is a lack of provision of shelters, medical and rehabilitation services, as well as referral mechanisms for victims. Concerns have also been raised that the Law on Fighting Domestic Violence (2005), which is reportedly under review, does not contain any explicit provision for ensuring child protection.

31. Trafficking has also become an issue of concern in recent years especially affecting young women aged 18-25 coming from poor family backgrounds.<sup>10</sup> The Special Rapporteur commends the important steps taken to combat trafficking, such as the establishment of the National Programme on Protection against Trafficking in Children and Women for the Purpose of Sexual Exploitation (2005-2014), the 2008 amendment to the Criminal Code to include persons involved in trafficking-related recruitment and transportation, the specialized counter-trafficking unit established in the National Police Agency (2010) and the Law on Combating Trafficking in Persons (2012). Nonetheless, effective implementation of these laws is essential for the eradication of trafficking in Mongolia.

## B. Children

32. Mongolia ratified the Convention on the Rights of the Child in 1990 and since then important steps have been taken to adopt legislative and other measures to provide protection for children. Despite these efforts, concern remains that a lack of sustainable investment in children's rights has meant that in practice many provisions are not sufficiently enforced. Child poverty continues to affect children and young people in

<sup>7</sup> UNICEF, *Situation Analysis of Children and Women in Mongolia*, 2009.

<sup>8</sup> Currently there are 11 women elected out of a total of 76 Members of Parliament.

<sup>9</sup> UNDP, *Mongolia Human Development Report 2011: From Vulnerability to Sustainability: Environment and Human Development* (2011), p. 19.

<sup>10</sup> U.S. Department of State, *Trafficking in Persons Report 2012*, p. 253.

Mongolia with estimates suggesting that in 2008 almost 43 per cent were living in poor households.<sup>11</sup>

33. While child mortality rates have witnessed a marked reduction since 1990, with Mongolia achieving its Millennium Development Goal target for 2015 in 2006,<sup>12</sup> there are still striking disparities in the country. Due to limited access to medical services and clean water and sanitation facilities, overall mortality rates are higher among rural communities.<sup>13</sup> Nutritional deficiencies are an underlying cause of child mortality in numerous areas with incidences of stunting affecting many children.<sup>14</sup>

34. The Special Rapporteur recognizes the significant progress made in providing free and compulsory education with the net enrolment ratio in primary education standing at 93.5 per cent and secondary school enrolment at 95 per cent in 2011.<sup>15</sup> However she is concerned by reports that children coming from poor families are less likely to receive education higher than primary or lower secondary level, with 19 per cent of children in rural areas dropping out of school before completing Year 8.<sup>16</sup> This is particularly relevant to children from herder households living in remote areas of the country who, along with their families, may have to move frequently, thus preventing them from receiving continuous education. Similarly, boys are more likely to be taken out of school by their families due to cultural attitudes to their role in the family. Children from families who migrate to the city face difficulties in securing education due to inadequacy of schools and despite progress made there are still problems with registration requirements.<sup>17</sup>

35. The Special Rapporteur was informed that violence against children is a significant problem. According to reports received, 46 per cent of children between the ages of 2-14 experienced physical and psychological punishment in their homes in 2010<sup>18</sup> and at least one-third of children from kindergarten through upper secondary level reported having experienced some form of violence (economic, emotional, physical or sexual) while at school.<sup>19</sup>

36. While in the country, the Special Rapporteur visited a State-funded institution<sup>20</sup> for children living on the streets or who are homeless or orphaned. She commends the impressive efforts made to create a safe environment for the children, with nutritional food, warm clothing as well as educational facilities and extra-curricular activities. She received reports, however, that other institutions are not of the same standard and overall too many children are being placed unnecessarily and for too long in institutions, even though such an option should only be considered as a last resort for children without adequate care. The Special Rapporteur recalls that in line with the obligation to protect and promote the best interests of the child, efforts should be directed towards enabling the child to remain in or return to the care of his or her parents or extended family, including through tackling the material deprivation of the family or providing alternative family-based care.

<sup>11</sup> UNICEF estimates based on Household Socioeconomic Survey 2007/2008.

<sup>12</sup> Mongolia, *Implementation of the Millennium Development Goals*, Third National Report (2009), p. 50.

<sup>13</sup> UNICEF, Mongolia: Country programme document 2012-2016, p. 3.

<sup>14</sup> UNDAF 2012–2016, Mongolia, p. 57.

<sup>15</sup> *Ibid.*, p. 57.

<sup>16</sup> *Ibid.*, p. 56.

<sup>17</sup> *Ibid.*, p. 57.

<sup>18</sup> Mongolia, National Statistics Office and UNICEF, *Multiple Indicator Cluster Survey 2010*, p. 76.

<sup>19</sup> Mongolia, Ministry of Education, Culture and Science and UNICEF, *Review of the Integrated Early Childhood Development Policy Implementation*, 2007.

<sup>20</sup> Special Centre for Children's Training and Education, Ulaanbaatar City, Mongolia.



37. Child labour remains a problem with reports indicating that some 66 per cent of the total amount of working children are involved in the worst forms of child labour.<sup>21</sup> The Special Rapporteur welcomes the adoption in December 2012 of the National Action Plan to Eliminate the Worst Forms of Child Labour, and urges the Government to establish the National Committee on the issue without delay and ensure its full implementation as a matter of priority.

38. The Special Rapporteur is concerned about reports regarding the injuries and fatalities arising from the practice of using children as jockeys. As the use of child jockeys is a violation of children's right to protection from exploitation and hazardous or harmful labour, immediate measures must be taken to ensure their protection in line with the recommendations of the National Human Rights Commission and the United Nations agencies based in the country.

39. In 2002, the National Programme on Child Development and Protection was adopted in conjunction with the National Authority for Children covering the period from 2002 to 2010. However, lack of funding prevented implementation of many of the plans outlined in the programme.<sup>22</sup> In collaboration with UNICEF and other international organizations, the Strategy for Strengthening Child Protection was developed. Despite these efforts, reports indicate that adoption of the strategy has been very slow and little progress has been made in this area.<sup>23</sup>

### C. Persons with disabilities

40. There are more than 100,000 persons with disabilities in Mongolia<sup>24</sup> (according to the National Statistical Office,<sup>25</sup> 79,000 were officially registered in 2008). Since 2010, the State has been party to the Convention on the Rights of Persons with Disabilities and its Optional Protocol and has enacted legal documents and national programmes such as the 2008-2012 Action Plan that includes such objectives as providing persons with disabilities with standard facilities, as well as opportunities for a comfortable lifestyle.

41. While the Special Rapporteur welcomes efforts made by the State to address the rights of persons with disabilities, she is concerned that insufficient measures have been taken to ensure that they have access, on an equal basis with others, to all facilities and services open or provided to the public, both in urban and rural areas (art. 9 of the Convention). Additional measures must be taken to ensure that persons with disabilities are able to live independently and participate fully in all aspects of society, including by ensuring equal access to appropriate and affordable public services in line with article 28 of the Convention.

42. The Special Rapporteur is concerned about the limited opportunities to access education, including non-formal and short-term skills-development training, work or income generation by persons with disabilities. The obstacles faced by children with disabilities in enjoying their right to education are particularly difficult. Additional efforts must be made to ensure an inclusive education system at all levels. Children with disabilities must not be excluded from free and compulsory primary education, or from

<sup>21</sup> U.S. Department of State, *Child Labor in Mongolia Report* (2011), pp. 415-416.

<sup>22</sup> *Ibid.*, p. 112.

<sup>23</sup> National Human Rights Commission of Mongolia, Submission to the Universal Periodic Review, 2010.

<sup>24</sup> UNDP, For a better economic and social integration of persons with disabilities in Mongolia: Current situation and perspectives (2010), p. 1.

<sup>25</sup> *Ibid.*

secondary education, on the basis of disability. The State must ensure that they receive the support required, within the general education system, to facilitate their effective education (art. 24 of the Convention).

#### **D. Herders and nomads**

43. Livestock herding in Mongolia accounts for 21 per cent of the GDP and employs 38 per cent of the national workforce.<sup>26</sup> It is practised in a variety of systems – from nomadic livestock herding in the desert zone to semi-nomadic herders in the more fertile forest steppe. Poverty in rural areas increased following the 2010 *dzud* (winter storm), in which nearly 9,000 herders lost their entire livestock, while several thousands of herder households lost a majority of their livestock. Living in very isolated conditions, herders and nomadic communities face significant challenges in accessing basic services such as health care and education. Unemployment is widespread, and due to distance from urban centres, opportunities to re-train or develop new skills can be limited.<sup>27</sup>

44. Due to climate change, rural herder households may have to move frequently and over longer distances. As mentioned previously, this can impact significantly on their children, in terms of access to education. Women-headed households are also affected as grasslands may become further degraded and the ability of rural economy to sustain income-earning opportunities for such households can be significantly reduced. Without livelihood opportunities in rural areas, herders are forced to move to the city, where they are in an extremely vulnerable situation due to limited access to basic services, including a lack of schools and hospitals, little or no access to water and sanitation, as well as public transportation in areas where the migrant population is concentrated. This is compounded by a lack of necessary skills to find jobs, and registration problems.

45. Mineral exploration resulting from the recent mining boom is also forcing herders and nomadic communities to move to more remote regions of the country, thus limiting their access to basic health care, education and social welfare services. The Special Rapporteur concurs with the recommendations made by the Working Group on the issue of human rights and transnational corporations and other business enterprises, following their recent visit to the country, that adequate access to health care and social services in all soums and adequate infrastructure planning prior to the start-up of mining operations should be guaranteed by the State (A/HRC/23/32/Add.1).

46. While commending the adoption of the State Policy on Herders (2009) and the subsequent establishment of the National Programme to Combat Desertification (2010), the Special Rapporteur is concerned by reports that many of these policies have not been implemented, leaving herders and nomadic communities vulnerable to the perils of environmental change and resulting poverty. She therefore urges the Government to implement the relevant policies to improve the living conditions of herders and to establish mechanisms to allow for skills-based training, particularly for young herders, as a means of ensuring alternative employment, should it become necessary.

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<sup>26</sup> UNDAF 2012–2016, Mongolia, p. 46.

<sup>27</sup> UNDP, *Mongolia Human Development Report 2011: From Vulnerability to Sustainability: Environment and Human Development* (2011), p. 66.

## E. Ethnic minorities

47. Mongolia is home to a number of ethnic minority groups who make up 17.6 per cent of the population,<sup>28</sup> including Barga, Bayad, Buryat, Chantuu, Durbet, Kazakhs, Tsaatan and Tuva. Though native-born members of these groups generally enjoy citizenship rights and associated protections afforded them under the law, the low level of economic, social and cultural development of certain ethnic groups may represent de facto discrimination, even if it was not the direct result of a deliberate State effort (CERD/C/MNG/CO/18, para. 19).

48. The Special Rapporteur recognizes that steps have been taken by the State to protect the rights of ethnic minorities, such as through the National Programme on Implementation of Human Rights which asserts that ethnic minorities have the right to receive education in their mother tongue. In some instances, this has reaped positive results, as was noted by the Special Rapporteur on the right to education during his visit to the country in 2010 (A/HRC/14/25/Add.3). However, reports suggest that the lack of an effective minority-centred education policy and adequately trained teachers and a shortage of minority-language resources prevent non-Mongolian speaking minorities from enjoying the basic right to education. In 2010, Kazakh minorities in the province of Bayan-Ulgii reportedly had the highest dropout rate and the lowest preschool participation rate in the country, while children from the Tuva minority group had little or no access to any level of education.<sup>29</sup>

49. The Special Rapporteur welcomes the measures taken to improve access to information in minority languages, in particular the introduction by Mongolian National Broadcasting of a second channel dedicated to serving ethnic/linguistic minorities and the establishment of community media in minority languages. These improvements have contributed to addressing some of the barriers to information access faced by minorities and should thus be strengthened.

50. Despite these efforts, the Special Rapporteur is concerned that ethnic minority groups are still not able to fully participate in Mongolian society. According to reports received, while a number of projects and programmes have been developed at the provincial level to support ethnic minorities, such as the Programme to Invigorate Livelihood Reindeer Farms and the Programme to Improve the Tsaan Peoples' Livelihood Opportunities, budget restraints together with lack of coordination at the ministerial level have prevented many of these projects from being fully implemented.<sup>30</sup> Furthermore, as Mongolia is not a party to the International Labour Organization's Convention No. 169 which recognizes the status of indigenous and tribal peoples, those minority groups which fully qualify under international law as indigenous or tribal groups are not provided with special rights or protections.<sup>31</sup>

51. In addition, the Special Rapporteur was informed that gaps in legislation have led to statelessness for certain ethnic groups, in particular those belonging to the Kazakh minority. This is mainly due to the fact that Mongolia does not allow dual nationality and a foreign citizen wishing to acquire Mongolian nationality is required to renounce his or her foreign nationality first. Many Kazakhs who have done just that, have faced obstacles re-acquiring Mongolian nationality, mainly due to the fact that the initial bilateral nationality verification

<sup>28</sup> Mongolia, National Statistical Office, 2011.

<sup>29</sup> United Nations Country Team, Submission to the UPR on Mongolia (2010), p. 5.

<sup>30</sup> National Human Rights Commission of Mongolia, *Report on Human Rights and Freedoms in Mongolia* (2010), pp. 90-91.

<sup>31</sup> Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011 -*

process between Mongolia and Kazakhstan is often delayed. Additionally, many stateless persons do not approach the authorities to restore or acquire Mongolian nationality, because they fear the stigma of being identified as stateless.

## **F. Internal migrants**

52. Rural to urban migration increased considerably over the last decade as people move to the cities in search of better living standards, employment opportunities, children's education and health care. In 2010, approximately 45 per cent of the population was living in Ulaanbaatar alone. This phenomenon is placing substantial socioeconomic constraints on the Government, due mainly to the fluctuating nature of the migrant population, which remains largely unregistered.<sup>32</sup>

53. Despite the improvements achieved through the introduction of an integrated civil registry database, the Special Rapporteur was informed that rural migrants continue to face problems obtaining residency identification in a simple and timely manner, thus preventing them from securing land, employment, accessing legal aid, education for their children, health care and other Government services. Combined with the lack of necessary skills to obtain work, families in these conditions struggle to provide their children with nutritional food, warm clothing and are often unable to meet the basic costs of providing uniforms and materials for school.

54. Evidence suggests that increased social tensions and higher rates of domestic violence exist in these urban poor areas, where there are also fewer job opportunities for women, and women who do manage to find work are reportedly paid less than their male counterparts.<sup>33</sup> Furthermore, widespread youth unemployment has the potential to exacerbate social problems such as crime and alcoholism.

55. The Special Rapporteur observed that those who move to the city from rural areas face considerable challenges adapting to city life due to unfamiliarity with urban systems and ways to access services to which they are entitled. The Special Rapporteur reiterates that particular attention must be paid to the health situation of children who have migrated from rural areas of the country and who are living without official registration in the capital, in order to facilitate their equal access to all health and social services.

## **G. Persons living with HIV/AIDS**

56. Mongolia is currently considered a low-HIV-prevalence country. As of the end of 2011, the total cumulative number of infections since 1992 was 100.<sup>34</sup> Despite the low prevalence of the disease, information received suggests a high level of discrimination and stigma against people living with HIV/AIDS. Due to the discrimination they suffer, in particular by health service providers, they are discouraged from seeking the services to which they are entitled. The Special Rapporteur commends the recent amendment to the 2004 Law on HIV/AIDS Prevention aimed at reducing discrimination and stigma experienced by persons living with HIV/AIDS, and recommends that the next step forward would be establishing mechanisms to ensure its successful implementation at all levels.

57. The Special Rapporteur is particularly concerned at reports of the risks faced by young people in the country. Lack of information and awareness-raising among this sector

<sup>32</sup> WHO, *Country Cooperation Strategy for Mongolia, 2010-2015*, p. 14.

<sup>33</sup> UNDAF 2012–2012, Mongolia, p. 56.

<sup>34</sup> Government of Mongolia, *AIDS response progress reporting for Jan 2010 to Dec 2011 (2012)*, p. 10.

of the population, combined with high youth employment and a rise in alcoholism may leave the youth sector particularly vulnerable to sexually transmitted diseases and HIV/AIDS.

58. In 2006, the National Committee for Coordinating HIV and AIDS Prevention activities was established through Government resolution No. 240. In 2011, Government resolution No. 7 transferred management of the Committee to the Ministry of Health. Despite the progress made through the Committee, the Special Rapporteur is disappointed to learn that the new Government plans to abolish the Committee.

59. In addition, the Special Rapporteur received reports that the continuity of future services for people living with HIV/AIDS remains uncertain. The Special Rapporteur calls on the State to ensure that comprehensive access to treatment, care and support is available to all persons living with HIV/AIDS.

## **H. LGBT persons**

60. Although the Constitution of Mongolia provides for a non-discrimination clause, prohibition on the basis of sexual orientation is not explicitly mentioned in the norm. As a result, lesbian, gay, bisexual and transgender (LGBT) persons in Mongolia face numerous human rights violations ranging from rape, physical and sexual attacks, arbitrary arrest and physical and sexual assault while in detention (A/HRC/WG.6/9/MNG/3). Due to fear of reprisals and secondary victimization, mainly by the police, many incidents of harassment and violence are not reported.

61. Information received suggests that discrimination against LGBT persons is endemic in the public, private and non-governmental sectors, and encompasses the police, the judiciary, health services, education, the housing sector and the media. Such levels of stigmatization lead to significant barriers to accessing health services, seeking employment and social acceptance. The Special Rapporteur also received reports that a high proportion of the LGBT community is living in poverty due to difficulties in finding employment or receiving an education because of stigmatization.

62. The Special Rapporteur urges the Government to implement the recommendations made during the 2011 universal periodic review of Mongolia (A/HRC/16/5) to develop legislation with a view to effectively protecting the rights of LGBT persons, and discourage the development of discriminatory ideologies in the country, through information and human rights education and to ensure that all allegations of attacks and threats against individuals targeted because of their sexual orientation are thoroughly and impartially investigated and punished.

## **VI. Challenges to the enjoyment of specific rights by persons living in poverty**

63. While people living in poverty face challenges in relation to a whole range of rights, this section addresses the rights that have been examined in more detail in the Special Rapporteur's previous reports, and on which she received more information during the visit.

### **A. Right to social security and protection**

64. The right to social security is an international human right as provided for in the International Covenant on Economic, Social and Cultural Rights (art. 9), the Convention on the Rights of the Child (art. 26, para. 1) and the Convention on the Elimination of All

Forms of Discrimination against Women (art. 11 (e)). Under the Covenant, realization of the right to social security implies that States should take social protection and assistance measures under domestic law, ensure their sustainability, ensure that benefits are adequate in terms of amount and duration, and that the level and form of the benefits are in compliance with the principles of human dignity and non-discrimination. States are therefore obliged to establish social protection systems.

65. Since its transition to democracy in 1990, Mongolia quickly shifted from a planned economy to a market-oriented one. Social security had previously been provided through State intervention; however, with transition came mounting poverty and economic uncertainty. Successive Governments have attempted to use economic policies to overcome poverty and inequality through a variety of social protection schemes. The principal challenge has been to reconvert the social protection system from universal access to targeted assistance, with limited resource availability.

66. Since 1995 – when a new social security system came into effect –, key components have been covered, including social welfare services, assistance benefits, employment services and social insurance for working people to palliate the risk of falling into poverty.<sup>35</sup> There are several schemes in place that provide financial support to a variety of vulnerable groups, including children, people with disabilities and older persons.

67. Despite these efforts over recent years, the expected results have not been produced. Politically motivated, too fragmented and ad hoc, these schemes have not ensured that the most vulnerable in Mongolian society are protected by social security.

68. Moreover, according to reports received by the Special Rapporteur, in recent years, previous Governments have used changes to the social welfare system as a means of garnering votes. The political manipulation of the social welfare system, in particular, the universal child grant scheme, seems to have created a sense of disillusionment among the population and a broad perception that universal access is not effective. Unverified assumptions suggesting that universal grants create disincentives to work or that people living in poverty do not invest the money wisely seem to underpin public policies, despite the lack of concrete evidence in this regard. Serious problems in the design and implementation of previous social welfare programmes should not be used as a reason for eliminating the provision of universal social assistance benefits across the board. Social protection programmes must be evidence-based and must always respect human rights principles and norms, in particular the principles of autonomy and agency of people living in poverty.

69. During the Special Rapporteur's visit, she was informed that the Government was working to devise and implement a new social security strategy. She welcomes the Government's pledge to review the social protection system with the aim of depoliticizing it.

70. The Special Rapporteur is encouraged by the Government's overall intention to strengthen the human rights approach of its social protection system. In this regard, and within the limits of this report, the Special Rapporteur makes the following recommendations to assist the Government in developing a social protection system that complies with Mongolia's international and constitutional human rights obligations and protects the most disadvantaged, as a matter of priority.<sup>36</sup>

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<sup>35</sup> Asian Development Bank (ADB), "Improving Mongolia's Social Security Sector", Social Protection Project Briefs, October 2009, p. 1.

<sup>36</sup> Committee on Economic, Social and Cultural Rights, general comment No. 19 (2008) on the right to social security.

## Targeting

71. The Special Rapporteur urges the Government to comprehensively assess the benefits of a proxy means testing methodology, through broad consultation with all stakeholders, including the general population and on the basis of independent and evidence-based reports. Particular attention should be paid to the administrative costs of implementing this methodology.

72. From a human rights perspective, targeting mechanisms as a means of reaching the poorest in society must be viewed with caution. In principle, human rights standards are not compromised by the use of targeted schemes as a form of prioritization of the most vulnerable and disadvantaged groups within a longer-term strategy of progressively ensuring universal protection. However, targeted schemes must be implemented with the intention of providing widespread coverage.

73. Therefore, it is necessary to ensure that targeted schemes are implemented within a longer-term strategy of progressively developing universal protection, avoiding unfair exclusion of beneficiaries and in compliance with all other human rights principles.

74. Universal non-contributory benefits require the simplest structure with the lowest administrative costs and therefore are more likely to be successful in achieving their aims. Universal benefits can also reduce opportunities for corruption as they are available to all who meet the requirements, and there is no stigma attached.

75. Implementing an income- or poverty-targeted system introduces exclusion errors because the selection of beneficiaries is a complex and often controversial process. While the State has some mechanisms to minimize this (e.g. cross-checking targeting and re-targeting exercises), which can significantly increase administrative costs, the exclusion of rightful beneficiaries constitutes a violation of their right to social security. Moreover, those excluded are often the most vulnerable who will find it more difficult to make a claim for their inclusion.

76. Targeting requires sophisticated administrative systems that may be too expensive to implement in Mongolia. Moreover, the more complicated the method of calculation – such as proxy means testing –, the more opaque the eligibility criteria becomes and the harder it is for the intended beneficiaries to scrutinize the process. As the process becomes less transparent it becomes increasingly difficult for individuals to make claims for protection.

77. As stressed in previous reports, the Special Rapporteur reminds the State that for all the above reasons, universal schemes are more in line with human rights obligations as: (a) they respond to the claim of universality of human rights norms; (b) they comply with the principle of equality and non-discrimination; (c) they reduce opportunities for corruption and manipulation in the selection of beneficiaries, which typically excludes the poorest; and (d) they reduce possible stigmatization as they are available to all who meet the requirement.

## Legal and institutional framework and long-term strategy

78. The social protection system must be enshrined in law<sup>37</sup> in order to ensure that it is a sustainable, transparent and accountable.

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<sup>37</sup> Ibid., para. 11.

79. Lack of a strong legal and institutional framework and a complementary long-term strategy can seriously threaten the enjoyment of human rights by the intended beneficiaries, as the programmes would be more vulnerable to political manipulation, and the long-term involvement of State authorities in all stages of the programme would not be guaranteed.

80. A social protection strategy established by law and a long-term institutionalized commitment to resourcing are essential prerequisites to ensuring fiscal sustainability and reliable and effective implementation. Moreover, they are guarantees that the programmes will not terminate with each change of Government and leave beneficiaries in a more difficult situation than before the institution of the programme, due to the abrupt loss of income or other support.

#### **Adequacy of benefits**

81. The State must ensure that benefits are adequate in terms of amount and duration, and that the form of the benefits provided are in compliance with the principles of human dignity and non-discrimination.<sup>38</sup>

#### **Accountability**

82. Effective accountability mechanisms not only enhance protection for beneficiaries, they also improve the efficiency of social programmes, minimize wastage and mismanagement, and strengthen public support for social protection systems. When social protection systems are not accompanied by accountability and redress mechanisms, they are less likely to be understood in terms of entitlements and rights, and may rather be viewed as instruments of clientelism which can be manipulated by political actors or local elites. Independent and effective mechanisms to monitor the administration of programmes, as well as the establishment of built-in mechanisms to collect and process complaints are thus essential to prevent both the occurrence and appearance of abuse by authorities.

## **B. Right to housing**

83. While poverty is more prevalent in rural and remote areas of Mongolia, inequality in living standards is more pronounced in urban areas. Since 2000, urbanization has occurred at a rapid pace in Mongolia: Ulaanbaatar's population has grown at 4.2 per cent annually; the rural population has declined by an average of 1.9 per cent in the same period. The capital's share of the total population has reached 44 per cent and the overall urban population has reached 68 per cent of the total population, imposing significant socioeconomic and health challenges for the Government.<sup>39</sup> The rural population declined from 43 per cent of the total population in 2000 to 32 per cent in 2010.<sup>40</sup>

84. The demand for housing in urban areas exceeds supply, particularly in Ulaanbaatar, leading to deterioration in housing quality. Reports received by the Special Rapporteur suggest that out of 273,000 families living in Ulaanbaatar in 2010, there were approximately 168,000 households living in *ger* districts of the city.<sup>41</sup> The Special Rapporteur met with a number of families living in informal settlements in the capital and witnessed the extremely precarious situation in which they are forced to live, with no access

<sup>38</sup> Ibid., para. 22.

<sup>39</sup> WHO, *Country Cooperation Strategy for Mongolia 2010–2015*, p. 16.

<sup>40</sup> UNFPA, *Implications of Demographic Trends for Socio-Economic Development and Public Policy in Mongolia* (2013).

<sup>41</sup> UNDP, *Mongolia Human Development Report 2011: From Vulnerability to Sustainability: Environment and Human Rights and Human Development* (2011).



to adequate shelter, water and sanitation facilities, and limited access to basic services. According to the World Health Organization, air and soil pollution caused by inadequate heating systems is contributing to serious health risks, such as respiratory disease and hepatitis.<sup>42</sup>

85. The State has an obligation under international human rights law to ensure that housing complies with all the elements to be considered adequate. The requirements for adequate housing are defined in general comments No. 4 and No. 7 of the Committee on Economic, Social and Cultural Rights, and include the principles of accessibility, availability of services, habitability, location and affordability. In practical terms, this means that steps must be taken to ensure sustainable access to safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and access to emergency services. Adequate space should be provided to ensure that residents are protected from the elements (particularly important given the harsh winters in Mongolia) or other threats to health, structural hazards and disease vectors. Location should allow access to employment options, health-care services, schools, child-care centres and other social facilities. Both housing law and policy should take fully into account the special housing needs of vulnerable groups.<sup>43</sup> Affordability is also important. The amount that a person or family pays for housing must not be so high that it threatens or compromises the attainment and satisfaction of other basic needs. This is particularly relevant for families, in particular young couples, who, due to circumstances, are now being forced to opt for apartments which are very expensive. There is therefore a need to ensure that housing costs are proportionate to overall income levels, and establishing subsidies for those unable to acquire affordable housing must be considered.

86. The Special Rapporteur recognizes the significant challenges facing the State in providing adequate infrastructure for an ever-increasing urban population. She welcomes the efforts made by the previous Government and the Municipality of Ulaanbaatar, in collaboration with the United Nations Human Settlements Programme (UN-Habitat), to introduce a *ger*-area upgrading project. Still she remains concerned about reports received regarding informal settlers living under the staircases of old apartments. Their precarious situation needs to be assessed in line with human rights obligations, and a solution provided as a matter of urgency.

### C. Right to access justice

87. In recent years, the Government has taken a number of initiatives to improve access to justice for those living in poverty, such as committing to the National Programme on Legal Aid for the Indigent (2007-2012)<sup>44</sup> and the joint Access to Justice and Human Rights project (2007). The project resulted in the establishment of legal aid centres in all 21 aimags, nine districts of the capital and six soums.<sup>45</sup> A number of dispute-resolution mechanisms, including legal clinics and mediation, have also been introduced; however, the Special Rapporteur is concerned at reports suggesting that the allocation of limited resources to these centres has in some cases diminished the quality of service provided.

<sup>42</sup> WHO, *Country Cooperation Strategy for Mongolia 2010–2015*, p. 16.

<sup>43</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing.

<sup>44</sup> UNDP, Access to Justice and Human Rights project, April 2007-June 2009, available from [http://www.un-mongolia.mn/publication/Fact\\_sheet/12-Access\\_to\\_Justice-23-07-09.pdf](http://www.un-mongolia.mn/publication/Fact_sheet/12-Access_to_Justice-23-07-09.pdf).

<sup>45</sup> UNDP, Access to Justice and Human Rights project, available from [http://www.undp.mn/publications/A2J&HR\\_PRODUC\\_Revised\\_2009.pdf](http://www.undp.mn/publications/A2J&HR_PRODUC_Revised_2009.pdf).

88. The Special Rapporteur also received reports that a Legal Aid Bill is being reviewed as part of the current legal reform package. She commends the Government for the broad consultation that was carried out during the drafting of the bill, and encourages the prompt enactment of the law and recommends that the process be used as a model for public consultation in the development of important legislation in the future.

89. Despite significant progress in the juvenile justice system, much remains to be done to ensure the full compliance with international human rights standards. The Special Rapporteur encourages the State to implement rehabilitation programmes and adopt child-centred approaches to crime prevention aimed at addressing the underlying social causes of youth crime, in accordance with the United Nations Guidelines for the Prevention of Juvenile Delinquency (General Assembly resolution 45/112, annex), and to ensure that pretrial detention facilities are not only adequately equipped, but are also child friendly.

## VII. International assistance and cooperation

90. Mongolia used to be one of the most aid-dependent countries in the world, with \$2.5 billion of foreign aid received from 1991 to 2002. However, due to the country's strong economic growth in recent years, aid dependency has decreased.<sup>46</sup>

91. Despite the fact that, in terms of economic growth, Mongolia now enjoys the status of a middle-income country, international cooperation will remain crucial, particularly in relation to the enhancement of social policies and further developing the legal and institutional framework for human rights. The high level of inequality necessitates continued support from the international community and the Special Rapporteur therefore urges donors to provide Mongolia with the necessary funds to assist with the development of a comprehensive poverty-reduction programme.

92. The Special Rapporteur also urges the Government to increase its efforts to take ownership of services currently provided with the assistance of the donor community and international agencies. Of particular concern is the work related to HIV/AIDS and the health care provided for those living with tuberculosis. The Special Rapporteur encourages the Government to take steps to ensure that when funding stops for the provision of services for HIV/AIDS (Global Fund) and for tuberculosis (GAVI Alliance) procedures are in place to continue the services provided for both groups..

## VIII. Conclusion and recommendations

93. **The Special Rapporteur commends the steps already taken by the recently established Government to tackle poverty and inequality, increase employment generation and improve the effectiveness of poverty-reduction measures. However, as evidenced in this report, considerable challenges remain, particularly with regards to the increasing income gap between the rich and the poor, lack of implementation in relation to legislation and poverty reduction policies, and the lingering risk of corruption. In order to ensure a future where everyone benefits from Mongolia's economic growth, immediate action must be taken to more effectively implement the poverty-reduction strategies.**

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<sup>46</sup> Bertelsmann Stiftung Transformation Index (BTI) 2012, Mongolia Country Report, available from <http://www.bti-project.de/fileadmin/Inhalte/reports/2012/pdf/BTI%202012%20Mongolia.pdf>.

94. Although the report includes recommendations in each section, the Special Rapporteur would like to especially urge Mongolia to take note of the following steps to improve the enjoyment of rights by the poorest sectors of society.

95. With regard to improving the poverty-reduction strategy and its implementation:

(a) Develop a national poverty-reduction strategy based on human rights norms which should be embedded in the local development plans of aimags and soums. Time-bound benchmarks and effective monitoring mechanisms must be put in place to ensure implementation;

(b) Ensure that steps are taken to implement existing legislation as a means of providing a sound basis for poverty reduction, and develop mechanisms to guarantee continuity of policies that work well;

(c) Designate a lead Ministry responsible for poverty-reduction policy formulation and establish appropriate monitoring and accountability mechanisms;

(d) Strengthen data collection on poverty and ensure that the analyses contribute to designing and implementing public policies and allocating resources. Priority must be accorded to the most disadvantaged groups in society when designing and implementing public policies and allocating resources;

(e) Ensure a clear division of roles between the Anti-Corruption Authority and the Prosecutor's Office so as to enable effective implementation of anti-corruption legislation, and ensure that the fight against corruption establishes a culture of accountability as an essential part of all State bodies;

96. With regard to the legal and institutional framework:

(a) Establish a task force to identify gaps in existing legislation and policies as a means of developing a comprehensive framework for combating poverty in the future;

(b) Ensure proper implementation of existing laws by strengthening monitoring and accountability mechanisms; ensure that laws that are currently under revision (e.g. family law, criminal law, law on child protection, law on combating domestic violence) are in line with international human rights standards;

(c) Revise the definition of discrimination within the Constitution in line with international human rights legislation to prohibit all forms of discrimination, including on the basis of sexual orientation, gender identity and health status, and develop effective mechanisms to provide access to justice and remedies in cases of violation of those rights;

(d) Ratify without delay the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;

(e) Ratify the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

97. With regard to the situation of groups particularly vulnerable to poverty:

#### Women

(a) Strengthen the participation of women in politics, particularly at the decision-making level, and make provisions for women who live in remote areas to be able to participate fully in political life;

(b) Fully implement existing gender-related legislation, including the 2011 Law on Gender Equality, so as to ensure gender-sensitive practices in political, economic, social and cultural life as well as family relations;

(c) Work with civil society and relevant United Nations agencies to ensure that the Law on Fighting Domestic Violence is fully implemented and that gaps in the legislation – such as child protection – are addressed;

(d) Ensure that adequate training is provided for law enforcement personnel and members of the judiciary in relation to gender-based violence, implement measures to increase the prosecution rate of offenders and establish more shelters for victims of gender-based violence, together with legal and psychological counseling;

(e) Provide adequate resources for the National Committee on Gender Equality to enable it to fully carry out its functions of promoting human rights for women in the country;

(f) Implement measures to ensure that adequate provisions are made available for women-headed households and single mothers who may be particularly vulnerable to poverty. Such policy should address access to employment opportunities, health-care and child-care facilities, with particular emphasis on reaching women living in rural and remote areas of the country;

(g) Implement the comprehensive anti-trafficking law adopted in January 2012, and further strengthen the law enforcement and judicial system as a means of addressing impunity and preventing the incidence of trafficking and domestic violence as well as the sexual abuse of women and girls;

(h) Address the existing gap with regard to the protection of victims of trafficking; ensure that offenders are prosecuted and law enforcement officials are adequately trained;

#### Children

(i) Implement measures, including public education awareness-raising campaigns to prevent and protect children against any form of violence and address societal attitudes, both at home and in the school environment, relating to corporal punishment as a method of discipline, so as to prevent domestic violence and end sexual abuse of children. Consider the recommendations outlined by the Committee on the Rights of the Child in this regard;

(j) Expand the national programme on the prevention of human trafficking with a view to dealing with all violations of the provisions of the Palermo Protocol, in line with the recommendations of the Committee on the Rights of the Child;

(k) Implement measures to ensure that children from all sections of society are afforded equal opportunities to education by, inter alia, ensuring access for children living in rural areas and improving registration procedures for internal migrants in urban areas. Additional measures must be taken to provide vocational training and alternatives to traditional education, where necessary;

(l) Work with relevant United Nations agencies and civil society to establish a task force to place the issue of child protection more prominently on the development agenda;

(m) Review existing institutions for abandoned, orphaned and homeless children and consult relevant stakeholders, including children and young people, with a view to improving the services available; also take the necessary measures to ensure reunification with parents or extended family, including by addressing material

deprivation, in line with article 3 of the Convention on the Rights of the Child. The availability of appropriate care facilities must be evaluated for children with disabilities;

(n) Implement effective measures to address child labour, including the International Program on the Elimination of Child Labor (IPEC), the National Action Plan to Eliminate the Worst Forms of Child Labour and the establishment of a national committee as a means of empowering children and their families to stop child labour activities and integrate children back into schools;

#### Persons with disabilities

(o) Ensure that national legislation is in line with Mongolia's obligations under the Convention on the Rights of Persons with Disabilities and consider establishing a task force to identify the main principles and standards of the Convention that have yet to be incorporated into national legislation;

(p) Take appropriate measures to ensure that persons with disabilities have equal access to transportation, information and communication; progressively remove barriers to access in buildings, roads, transportation and other facilities, including schools, medical centres and workplaces, in accordance with article 9 of the Convention;

(q) Implement legislative provisions to ensure that children with disabilities, particularly those living in rural areas, can access inclusive, quality and free primary and secondary education on an equal basis with others in the communities in which they live;

(r) Work with relevant United Nations agencies, civil society organizations and persons with disabilities to ensure monitoring and compliance with existing laws, and conduct assessments to determine how to better incorporate the rights of persons with disabilities in the design of public policies;

#### Ethnic minorities

(s) Ensure that ethnic minorities enjoy their rights on an equal basis with the rest of the population, including developing cultural and educational policies to enable the availability of instruction and information in minority languages;

(t) Enforce the National Human Rights Commission's recommendations on the rights of minorities, including establishing independent monitoring and evaluation on the implementation of programmes and projects managed by the State, with the involvement of representatives of minority groups;

(u) Ratify the International Labour Organization's Convention No. 169 which recognizes the special rights and protection of indigenous and tribal peoples;

(v) Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and undertake a comprehensive review of national legislation and policies for the purpose of preventing and reducing statelessness; resolve the issue of statelessness, in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), through improved registration of persons who previously held Mongolian nationality and expedite procedures for (re-)acquisition of Mongolian nationality;

#### **Herders and nomads**

(w) Establish mechanisms to allow for skills-based training, particularly for young herders, as a means of ensuring alternative employment if necessary.

(x) Ensure adequate access to quality basic services such as health care, education, water and sanitation in all soums; undertake comprehensive studies to assess the current level of access by this sector of the population and design concrete measures to improve it;

#### **Internal migrants**

(y) Improve the registration procedure for rural migrants to peri-urban settlements, ensuring that no one is prevented from accessing basic services because of a protracted registration process;

(z) Develop awareness raising campaigns to inform migrants of their rights and to assist them in adapting to a new and unfamiliar environment;

(aa) Ensure that local authorities are allocated with the necessary resources to enable them to provide basic services to migrants arriving in urban areas;

#### **Persons living with HIV/AIDS**

(bb) Ensure full implementation of the recent amendment to the 2004 Law on HIV/AIDS Prevention to reduce discrimination and stigma experienced by persons living with HIV/AIDS;

(cc) Ensure protection against discrimination on the basis of health status in all aspects of life and provide effective mechanisms for redress. Amend the law on non-discrimination in the workplace based on HIV status and ensure employment opportunities are available when possible;

(dd) Work with relevant stakeholders to re-establish the National Committee on HIV/AIDS or create a similar body to coordinate prevention activities in order to ensure that the rights of persons living with HIV/AIDS are fully protected and that they are able to access the same services as everyone else in society;

(ee) Develop awareness-raising campaigns to eradicate the stigmatization of persons living with HIV/AIDS and provide training to health-care providers to ensure the prohibition of discrimination and the right to confidentiality of persons living with HIV/AIDS;

#### **LGBT persons**

(ff) Develop legislation with a view to effectively protecting the rights of LGBT persons, including by conducting thorough and impartial investigations of allegations of attacks against LGBT individuals;

(gg) Facilitate the full participation of LGBT persons at the decision-making level; implement a universal non-discrimination policy in all educational and health-care facilities and ensure that effective accountability mechanisms are established in cases of non-compliance;

(hh) Implement training for law enforcement personnel on the prevalence of gender-based violence against the LGBT community.

98. With regard to challenges to the enjoyment of specific rights by persons living in poverty:

#### **Social security and protection**

(a) The Special Rapporteur encourages the Government to take note of the recommendations outlined in chapter VI, section A, on social security and protection, with a view to establishing a comprehensive social protection system. In particular she wishes to reiterate the need to:

(b) Depoliticize the current social protection scheme;

(c) Ensure that targeting methods are employed with the aim of progressively achieving universal coverage;

(d) Ensure that targeting methods are reasonable, objective, transparent and gender sensitive, and avoid exclusion errors;

(e) Ensure that social protection is established and defined by law, supported by a long-term strategy and reinforced by an appropriate and adequately funded long-term institutional framework;

(f) Ensure equity and access to services without discrimination and take positive actions to enable access by persons subjected to structural discrimination, such as women, persons with disabilities, minorities and older persons;

(g) Develop and collect disaggregated data regarding gender, age, ethnicity and disability so as to monitor and evaluate social protection programmes;

#### **Housing**

(h) Ensure that the physical infrastructure required for housing to be considered adequate is in place for all members of society, particularly the most vulnerable;

(i) Work with relevant United Nations agencies and community groups to assess the needs of persons living without adequate housing, and develop the necessary mechanisms to support *ger* areas upgrading projects, including affordable financing for housing construction or improvements;

#### **Access to justice**

(j) Expedite the Legal Aid Bill and allocate the necessary budgetary and human resources for its effective implementation;

(k) Tackle the capacity constraints of the legal aid centres by allocating sufficient resources and ensuring that legal aid lawyers are adequately trained and remunerated;

(l) Respect and protect the rights of children in conflict with the law and ensure compliance with the United Nations Guidelines for the Prevention of Juvenile Delinquency.