

Migrants and Refugees Rights Mongolia - Stakeholders Submission to OHCHR for UPR

1. In preparation to the upcoming Universal Periodic Review of the status of human rights in Mongolia by the Human Rights Council of UN a training workshop and consultations were held among Mongolian NGO/CSOs¹. The training-seminar established a NGO Forum (the Forum) to coordinate preparation of a joint report, organization of advocacy activities and selected most pressing rights issues to report on in the joint and separate submissions and created thematic working groups for each area.
2. One of the thematic groups have formed to address the status of the Migrant and Refugee Rights in Mongolia. The working group has incorporated the comments and inputs of NGO forum members for accuracy.
3. This report is a documentation of the status of implementation of provisions of the UDHR, ICCPR, ICESCR and other international conventions ratified by Mongolia, as well as the Constitution and laws of Mongolia.

Current situation

4. While Mongolia within the framework of its national legislation has procedures regulating international and internal migration, there are no policies aimed at addressing the needs of migrants in a more favorable manner. Due to inadequate coordination of internal movement of the citizens, migrants lack the means to enjoy the rights provided for in the Constitution of Mongolia and the Universal Declaration of Human Rights. Specifically these include right to adequate housing, protection of health, right to education and right to elect and be elected.
5. Mongolia has not ratified international conventions addressing the rights of refugees and this status creates obstacles in addressing issues concerning foreign citizens seeking asylum in Mongolia. It is important for the government to create legal procedures in conformity with international practices that will allow protection of basic human rights and freedoms, create favorable condition for fair and humane treatment of asylum seekers.
6. The Constitution adopted in 1992 guarantees the citizen's right to freedom of movement and residence. The movement of citizens from rural areas in search of better conditions and opportunities for education, health-care and greater opportunities to improve livelihood has intensified in the 90's and continue to date.
7. Increasing flow of rural-to-urban migration is resulting in migrants not being able to fully enjoy their political, economic, social and cultural rights, which continues to be a major challenge to be resolved. Migrants are not able to exercise their right to elect and to be elected; there is no access to decent housing. Children of migrants have no access to primary education, and safe and adequate living conditions are not created for these citizens.
8. The number of impoverished population who lost their herds to natural disasters², and those pushed out from their jobs due to inadequate mining regulations, is growing at

¹With the technical assistance of Asia-Forum, a regional NGO, Center for Human Rights and Development and Globe International have carried out a training of Mongolian NGO/CSOs on January 10-12, 2010 in Ulaanbaatar. The workshop was attended by over 40 CSOs engaged in human rights protection activities.

² Zud –winter disaster caused by combination of severe cold weather and heavy snowfall closing pasture. Zud affected the Western and Central parts of Mongolia in 1991, 1994, 2000, 2009. Herders have lost millions of animals to this 2009/2010 winter zud. Influx of herders who lost all animals is expected to grow in urban centers and artisanal mining areas.

high pace. The rights of indigenous population to live the traditional nomadic lifestyle and engage in nomadic livestock husbandry are severely violated, as their fertile pasture and hay lands, best fresh water source sites are lost to owners of mining licenses and concessions.

9. The adverse impact of climate change is affecting Mongolia at higher than international average rate (2.14⁰) causing more frequent occurrence of winter disasters (zud), snow and sandstorms, floods and wildfire.
10. Increased migration from bagh to soum, from soum to aimag centre and on to cities is triggered by a combination of adverse effects of desertification, soil and water degradation contaminated by chemicals used in mining on the quality of pasture lands, which are crucial to the traditional nomadic animal husbandry – the sole source of herding population’s livelihood.
11. Rural to urban movement, especially migration to capital Ulaanbaatar is growing faster in recent years. A survey shows that 39.1% of migrants settle³ in Ulaanbaatar to form almost one third⁴ of the population living in Ger districts. The rapid growth of population in Ger districts outpaces the governments’ ability to provide basic services and economic opportunities, and leading to further increase in population living in extreme poverty.
12. There are no economic or social programs and services in place to assist the migrants in adapting to urban life, to assist them with accessing education, health and social benefits services aimed at easing the change for these internally displaced citizens
13. The migrants live in gers heated by wood/coal fired stoves lacking access to water supply, sanitation and waste removal services. A considerable number of households are still not connected to the city power supply line.
14. Migrants who are not registered as residents with the local authorities are denied access to primary and diagnostic medical care as one third of this population is not covered by health insurance. Majority of migrants are those who lost herds and were driven off their lands by grinding poverty, move to cities in search of jobs, while some move to cities to get access to culture and better education opportunities.⁵ Most of these migrants end up serving as entrance guards living under the stairs and earning pennies to make ends meet.
15. Rural to urban migrants face the following challenges: high fines, lengthy and bureaucratic process of registration with the local authorities to obtain residency ID’s. Without registration migrants are denied rights to land, access to decent housing and are forced to put up their ger near flood dams or power transmission infrastructure to be exposed to flood and fire disasters. Migrants are discriminated based on low education and skills levels often falling into financial constraints further pushing them to join the army of unemployed and impoverished.
16. The law on in- and outbound migration of labor force ⁶ enacted in 2001 regulates implementation of rights of Mongolian citizens leaving the country in search of jobs and foreign citizens coming to Mongolia to work. Enforcement of this law provided chance to thousands of citizens to leave the country to seek better paid jobs overseas.
17. In addition to the above mentioned law, outbound migration of labor is regulated by relevant provisions of the Constitution of Mongolia, Labor Law, Law on Legal Status of Foreign Citizens and the Law on Social Insurance.

³ Survey on Trends and Aftermaths of Internal Migration in Mongolia, MSWL, MSU-ES-RSD, UNFPA, Ulaanbaatar, 2008

⁴ Challenges met by Rural-Urban Migrants, Magazine called “Mongolian Population” - 2004 №11

⁵ Face-to-face interview with Ms. D (53); Focus group meeting on migrants’ issues with Governor of Sukhbaatar District, 6 social workers of Horoos ##7 and 18.

⁶ www.legalinfo.mn The Law on Sending Labour Force Abroad and Receiving Labour Force and Specialists from Abroad, 2001

18. South Korea, Japan and Czech Republic are the three countries which officially contract workers from Mongolia. Official sources claim that 100,000 immigrants from Mongolia work and study in 80 countries around the world. While unofficial sources raise this number up to 250,000 Mongols working or studying in 140 countries.
19. The list of countries receiving labor force from Mongolia is led by South Korea, where an estimated 28,720⁷ Mongols live and work. 60% of these people work under official contracts signed with the employers. However, 326 of these workers have died under various circumstances between 2004 and 2007. The cause of these tragic events lies in poor implementation of work safety regulations and lack of monitoring implementation for compliance with the terms and conditions of bilateral agreements.
20. The procedure that requires all applicants to pass medical examination is strictly followed and only healthy citizens are recruited to go abroad. Workers returning after 3-5 years of work overseas come back with one or other form of health conditions. To date, the government has not taken any effective action to address this issue.
21. As of June 2008, an estimated 38,000⁸ foreign citizens including stateless persons reside in Mongolia. These numbers evidence the fact Mongolia has become a sender and receiver of migrants. Meanwhile the government is still reluctant to ratify conventions protecting rights of immigrants and their families and is not creating favorable legal framework to deal with the flow of immigrants into the country
22. There is also a need to develop and implement programs aimed at providing workplace and basic social services to migrants voluntarily returning home from overseas and for those deported back to Mongolia. Reports on cases of violation of human rights and freedoms of people captured and deported back to Mongolia in on the increase.
23. The pressing issue of providing jobs, creating job opportunities and assisting migrants in adjusting back to the society is not supported by a unified government policy or plan. Returned immigrants who have not been able adapt to current social conditions seek to leave the country in search of jobs again and in some occasions resort to use of illicit means. Thus, they face the risks of becoming victims of transnational organized crime involved in human trafficking and drug smuggling.
24. Children of rural-urban migrants lack access to kindergartens and primary schools. The slum dwellings in outskirts of the city are overcrowded by flow of migrants which in turn cause overloading classroom capacity at these schools. Schools are forced to work in three shifts with classes filled by 40-53⁹ pupils. Due to lack of paved roads some children walk 3-4km¹⁰ distances to reach nearest school.
25. 33.3% of migrants' children dropped-out of due to lack of registration documents and half of these drop-outs are 5-8 graders. These drop-outs are also not enrolled in informal education. Parents who decide to send their children to a decent school end up paying more in transportation cost as child will have to change 2-3 buses to get to school. This adds more burdens on already stretched family budget. Migrants' children in these slum schools face many difficulties: inefficiency of teachers working in overcrowded classes, difficulty in understanding subjects, discriminated and demands to make extra payments, etc. Compared to pupils attending schools in central parts of the city, children from migrant families cannot afford to attend after-school activities

⁷ Survey on "Implementation of Rights of workers living in South Korea", XЭҮК, MLSW, SSIA, Union of SME workers, Philanthropy Centre for Development, 2007, South Korea

⁸ Ibid...

⁹ Discussions held with migrants residing at 7 and 18th horoos of Songino Khairkhan district...

¹⁰ Survey on Trends and Aftermaths of Internal Migration in Mongolia, MSWL, MSU-ES-RSD, UNFPA, Ulaanbaatar, 2009

26. Tens of thousands of parents leave the country in search of better opportunities. Aspirations of these adults have adverse impact on the basic rights of their children.¹¹ Separated from their parents children are exposed to risks of dropping out of schools and getting into trouble in the streets.
27. Most of the immigrants working overseas are reluctant to return home, hoping to bring the family members once they are better established there. However, majority of family members are denied visas and the child's right to live with and be brought up by caring parents continues to be violated.

Refugees

28. Mongolia has not started addressing the issue of refugees. The issue of refugees was first encountered during the era of political persecution when citizens were forced trumped-up charges. First Mongolian refugees were 4 Mongolian citizens who applied in the 1960s to India to provide them political asylum.
29. As mentioned above, the issue of political asylum seekers was put on table in early 60s, however up until now this right guaranteed by the UDHR to be handled as a priority matter is treated as classified operation opening no information on whether these rights are respected and implemented. There is no information on asylum seekers and refugees leaving Mongolia.
30. The spokesman of the Ministry of Foreign Affairs informed us, that as of October 2009, there are no refugees registered to have entered Mongolia.¹² However, while we were preparing this report, the UN officer in charge of refugee issues informed us that the government had deported an asylum seeker who had applied for assistance and protection of his rights.¹³
31. There is also information that another citizen from China's Inner Mongolian region was deported in 2009. Reportedly, this person was repatriated when the UNDP Refugee Agency was reviewing his application, dully filed by him and in accordance with the procedures.¹⁴ We were informed that this act is considered to be in serious violation of international practices and human rights conventions, including CAT.
32. Mongolia is not party to international conventions dealing with the rights of refugees. The reason for the reluctance is explained by the National Security Council not having delivered an opinion on its impact. Cabinet used the absence of NSC opinion to not to discuss and deliver decision on this submission.
33. There is informal unconfirmed information that North Korean citizens seeking asylum enter Mongolia via China. Government lacking financial resources leaves these matters to be handled by international organizations. Due to secrecy surrounding this issue and lack of information human rights organizations have no material to work with. Therefore, one of the priorities of the government of Mongolia should be to provide opportunity to human rights watchers to work with refugees by giving access to information and making the process of granting asylum transparent.

Recommendations

¹¹ Survey on "Status and Consequences of Employment of Mongolian Citizens Overseas", MSWL, Mongolian Population and Development Society, UNFPA, 2005

¹² From the meeting held with Mr. L. Munkhtushig, of MFA, on 3 Feb. 2010

¹³ From the meeting held with N. Anaraa, Senior Officer of the Refugee Agency, UNDP Mongolia, 5 February 2010

¹⁴ Ibid

- Develop an umbrella strategy to cover all forms of migration, to include legal instruments and mechanisms to deal with internal and international migration, means of prevention, protection, creating favorable conditions for rehabilitation;
- Study the possibility of conducting negotiations and concluding consular conventions on dual citizenship to migrants, in countries where a considerable number of Mongolian citizens reside and where newly born children automatically obtain citizenship of the receiving country.¹⁵
- Improve existing legislation to ensure mechanisms for protection rights of outbound immigrants, create a unified database to register citizens living abroad;
- Appoint Human Rights Attaches to embassies in the countries where considerable number of Mongolian immigrants reside;
- In order to protect the rights of citizens working overseas and inbound migrants ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Current situation of absence of information and verifiable statistics on refugees, lack of legal environment protecting the rights of all refugees speaks for the urgent need to address these issues and information open to the general public and human rights watchers.

The Submission compiled by:

- Human Rights Centre to Support Citizens
- Centre for Gender Equality
- Zorig Foundation
- Child Protection Centre

¹⁵ Survey on “Implementation of Rights of workers living in South Korea”, ХЭҮК, MLSW, SSIA, Union of SME workers, Philanthropy Centre for Development, 2007, South Korea