

MONGOLIA

EXECUTIVE SUMMARY

Mongolia is a multiparty parliamentary democracy. The most recent presidential election, held in 2009 and considered largely free and fair, was won by former prime minister Tsakhia Elbegdorj of the Democratic Party. Prime Minister Sukhbaatar Batbold and his majority Mongolian People's Party (MPP) continued to dominate the parliament but governed under a unity government with the Democratic Party. The MPP, formerly known as the Mongolian People's Revolutionary Party (MPRP), changed its name during the year. A small remnant of the original MPRP kept the MPRP name and continued as a competing splinter party led by former president Nambar Enkhbayar. Security forces reported to civilian authorities.

The three prominent human rights abuses were police abuse of detainees, uneven enforcement of the law and corruption within the judicial system, and a lack of transparency in government affairs. While the law provides for protection of basic human rights, there was a significant disconnect between human rights laws, regulations, and government pledges of support and what was implemented.

Other human rights issues included poor conditions in detention centers, arbitrary arrests, government interference in the media, religious discrimination, including continued refusal by some provincial governments to register Christian churches, unlawful deportation of foreign citizens, opaque and complicated procedures for stateless persons to gain citizenship, secrecy laws and a lack of transparency in government affairs, inadequate measures to counter domestic violence against women, trafficking in persons, discrimination against persons with disabilities, discrimination against ethnic minorities, and violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons.

The government took few steps to punish officials who committed abuses, and there was an atmosphere of official impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, sources reported that police, especially in rural areas, occasionally abused prisoners and detainees. The use of unnecessary force, particularly to obtain confessions, was common.

Nongovernmental organizations (NGOs) claimed guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. NGOs stated that some inmates were beaten and deprived of visitation rights in response to infractions committed in detention. According to an NGO working closely with the prison system, prisoners who attempted suicide were beaten and refused basic amenities and visitation rights.

During the year the Office of the State Prosecutor General's Special Investigative Unit (SIU) received 50 complaints against officials suspected of torture. Of these, 37 were dismissed for failure to comply with the relevant code's definition of torture. According to Amnesty International (AI), the code was interpreted to apply only to investigators and exempts prosecutors and prison officials. Six of the torture complaints were under investigation by SIU, while seven were transferred to other departments. AI reported that while there was a reduction in physical forms of torture, complaints to SIU did not decline. Complaints more recently concerned coercion and threats, including threats from police to investigate family members if a confession was not forthcoming.

Prison and Detention Center Conditions

According to AI conditions in prisons were poor but improved during the year. Prison and detention center conditions generally varied based on the facility. The new predetention facility, Number 461 Songolon Predetention Center, had natural light and was well ventilated. Women and juveniles had at least 30 minutes of exercise or outdoor time every day, and men had the same amount of time four days per week. The facility contained a clinic that could accommodate approximately 126 patients, and there was a full-time doctor, social worker, and psychologist on call. The facility had a significantly lower rate of tuberculosis than the previous predetention facility.

In contrast, within the Denjin Myanga administrative detention facility, sources reported detainees found guilty of administrative offenses lived in squalid conditions due to overcrowding and poor ventilation. All prisoners were allowed outside three times per day and up to an hour each time, although during the winter severe weather precluded outside activities. Conditions in police-operated detoxification centers were equally poor. Inebriated individuals were detained in overcrowded holding cells for up to 24 hours. Officials reported they lacked the resources to provide adequate water, food, hygienic standards, adequate bedding, ventilation, and bathing facilities. In all detention facilities, prisoners had access to potable water.

The General Executive Agency of Court Decision (GEACD) reported 25 deaths during the year in prisons and three deaths in detention facilities. AI declared these totals were underestimated due to the practice of correctional officials releasing terminally ill patients from their ward shortly before their impending death.

The GEACD reported there were 6,631 prisoners serving sentences, of whom 393 were women and 20 were juveniles. Number 461 Sonsgolon Predetention Center, which held prisoners awaiting trial, could house more than 1,000 detainees and held an estimated 700 in September. In addition the Denjin Myanga administrative detention facility in Ulaanbaatar was built to hold 160, but there were often more than 250 detainees, particularly during the winter. UN officials reported children and adults often were not separated in police detention facilities and pretrial detainees were held with convicted prisoners. Conditions for men and women were similar; however, in general women were allowed more outdoor recreational time than men.

The GEACD reported that ombudsmen are not able to serve on behalf of prisoners and detainees. No steps were taken to improve recordkeeping or use alternative sentencing for nonviolent offenders, although good behavior was a consideration for early probation. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and request investigations, but AI stated that in many cases this process was significantly flawed and failed to address legitimate complaints. The Prosecutor's Office and State Specialized Inspection Agency monitored prison and detention center conditions.

The government generally allowed access to independent nongovernmental observers, but the access was limited to low- and medium-security facilities. However, even at these facilities, reportedly visitation requests had to be submitted in advance and the previous relatively unfettered access afforded to NGOs was limited.

The government took several steps to improve overall conditions in prisons and detention centers. The parliament requires video and voice recording equipment in interrogation rooms, predetention centers, and prisons to help prevent abuses. At the Denjin Myanga administrative detention facility, the detention administration improved hygienic standards by purchasing washing machines and renovating public spaces. At year's end the GEACD reported the government invested 1.17 billion tugrik (\$841,000) in prison renovation during the year.

d. Arbitrary Arrest or Detention

The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention occurred. Politicians from certain opposition parties complained about what they characterized as the arbitrary arrest and detention of certain members who were never formally charged. In particular authorities arrested certain politicians under the pretext of possibly opening a case; they were subsequently held for a period of days or weeks and then released. The press reported such cases and interviewed those detained.

Role of the Police and Security Apparatus

External security forces, who reported directly to the Ministry of Defense, are responsible for national defense but also assist internal security forces in providing domestic emergency assistance and disaster relief. The national police and the Border Force, who operate under the Ministry of Justice and Home Affairs, are responsible for internal security. The General Intelligence Agency, whose civilian head reports directly to the prime minister, assists the aforementioned forces with internal security as well as foreign intelligence collection and operations.

Civilian authorities largely maintained control over both external and internal security forces, yet mechanisms to investigate police abuses remained inadequate, primarily because of a lack of resources to pursue allegations. There were numerous instances of impunity involving the security forces reported during the year. Complaints against the police, prosecutors, and members of the judiciary

were referred to the SIU. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials. During the first nine months of the year, the SIU received 50 complaints against law enforcement officials, opened cases on seven of these complaints, rejected 37, and transferred six to other agencies. Among these cases there was one conviction, two dismissals, and one still under consideration. At year's end one case before the court system was under investigation. There were no major government actions, including training, to reform the security forces.

It was widely reported that ultranationalist groups enjoyed impunity due to police complacency and unwillingness to apprehend the offenders. Ultranationalists targeted LGBT persons, Chinese, and Koreans with threats, violence, and the extraction of protection money.

Arrest Procedures and Treatment While in Detention

A judge-issued warrant is required to arrest a suspect. A "pressing circumstances" exception allows police to arrest suspects without a warrant. The UN reported that two-thirds of those accused of criminal offenses in Ulaanbaatar were arrested without court authorization.

By law police must request a court order to continue holding suspects after 24 hours. If permission is obtained police may hold suspects for up to 72 hours before a decision is made to prosecute or release them. If a court order is not granted within 72 hours, police must release the suspect.

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees had prompt access to family members and could be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. Despite this legal provision, many detainees were unaware of their right to a government-appointed attorney and did not assert it.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were increasingly problematic, particularly at the level of the Supreme Court. Bribery sometimes contributed to the dismissal of a case or reduction of a recommended sentence.

Trial Procedures

The law provides for the right to a fair public trial by a judge, but this was undermined by frequent bribery and a large caseload per judge. Defendants are innocent until proven guilty, and this was respected in practice. Defendants could question witnesses, present evidence, and appeal decisions. Juries were not used.

In practice trials were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. Judges often relied on confessions, many of which were coerced by police, to convict defendants. Additionally, NGOs complained about witness intimidation, limited public access to trials, and an overall lack of transparency in court decisions.

Political Prisoners and Detainees

There were no official reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Administrative and judicial remedies were available for alleged wrongs. Corruption, outside influence, and lack of enforcement of court orders were problems in the civil judicial system. Although by law victims of police abuse can sue for damages, in practice few were able to claim compensation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The criminal code and constitution prohibit such actions; however, there were reports of government surveillance, wiretapping, and e-mail account intrusions against journalists and NGOs critical of the government.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. Nevertheless, government interference with licensing and indirect intimidation of the press, particularly broadcast media, was evident.

Freedom of Press: The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, political influence in the media continued to be a problem. Observers stated that many newspapers and broadcast media were either affiliated with political parties or owned (fully or partly) by individuals affiliated with political parties, and that such affiliation strongly influenced their reports. The observers also noted underpaid reporters frequently demanded payment to cover or fabricate a story. Additionally, lack of transparency during the tendering process and lack of a fully independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

Censorship or Content Restrictions: Press representatives alleged indirect censorship in the form of government and political party harassment. For example, the Media Office of the General Policy Authority sent a cooperation agreement valid for one year to all Ulaanbaatar-based television stations. The cooperation agreement provided safety for television stations and their journalists working at flashpoints. In exchange for providing this safety, the agreement imposed certain restrictions. It required the media to cooperate with the police to broadcast reports to defuse and resolve mass disorder and forbade the dissemination of information that encourages mass disorder during public demonstrations or compromises public or organizational privacy and state security.

Libel Laws: Press representatives often faced the threat of libel complaints and tax audits by government authorities. The law places the burden of proof on the defendant in libel and slander cases, and both defamation and insult were criminal charges.

Internet Freedom

There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were reports that the government monitored some e-mail accounts.

A representative of the LGBT Center alleged government monitoring of LGBT persons' personal e-mail accounts and stated that recent activity logs frequently listed unknown Internet protocol addresses within the country.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Foreign Travel: Foreign residents must obtain exit visas to leave the country. Public and private entities increasingly used the visa requirement to pressure foreign investors to settle commercial disputes and force some NGOs, particularly nonprofit Christian organizations, to leave the country.

Protection of Refugees

Access to Asylum: The constitution provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, yet problems persisted in a few areas. For example, by law the procedure to acquire or reacquire citizenship should take no more than six months, but it often took considerably longer. The Immigration Agency asserted that under the Law on the Legal Status of Foreign Citizens, passed in 2010, there were now clearer provisions concerning deportation criteria. At the same time, the law provides more power to the Immigration Agency to deport individuals seeking refugee status.

Employment: Refugees are considered illegal migrants and as such do not have permission to work.

Access to Basic Services: Refugees generally lacked access to basic services such as health care and education.

Stateless Persons

The UNHCR reported that many thousands of ethnic Kazakh Mongolians renounced their Mongolian nationality upon moving to Kazakhstan in the early 1990s, but many who were unable to gain Kazakh citizenship returned to Mongolia, where they became stateless. The UNHCR reported that the process of reacquiring Mongolian nationality was long and complicated and recommended improving the implementation of relevant laws. In addition observers cited lack of awareness regarding the relevant law as a reason for statelessness. Furthermore, the process of verification with the Kazakh government was protracted. Adding to the confusion, the Mongolian Immigration Agency estimated there were 40,000 ethnic Kazakhs holding both Mongolian and Kazakhstani citizenship, despite the fact that Mongolia does not recognize dual citizenship.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In the most recent presidential election, held in 2009, the former prime minister and candidate of the opposition Democratic Party, Tsakhia Elbegdorj, defeated MPRP incumbent Nambar Enkhbayar. Independent observers described the election as largely free and fair.

Political Parties: Political parties could operate without restrictions or outside interference, although bias within the General Election Commission was a concern, particularly for smaller political parties.

Participation of Women and Minorities: There were no legal impediments to the participation of women or minorities in government and politics, but their numbers remained small. There were three women in the 76-member parliament. One of the 15 cabinet ministers was a woman, as were seven of the 17 Supreme Court justices. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in the parliament. There were two members of minority groups serving in the cabinet or on the Supreme Court.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity.

Corruption was perceived to be a serious and continuing problem in all branches and at all levels of government, particularly within the judiciary, customs service, and law enforcement agencies. Varying degrees of corruption at most levels of government resulted in a blurring of the lines between the public and private sectors. Conflicts of interest were frequent. The problem was compounded by ineffective governmental oversight bodies and media that frequently failed to expose corruption.

The Independent Agency against Corruption is the government body responsible for combating corruption. While the agency was provided with a relatively large budget and broad mandate, public faith in the agency was low, and it was not viewed as politically impartial. Moreover, when the agency launched corruption investigations, the results of the investigations and subsequent court proceedings were not made public.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. NGOs initially complained that one problem with the prosecution of bribery was that both the official soliciting the bribe as well as the person compelled to pay it are prosecuted. This led to less reporting of bribery. NGOs reported that the problem was somewhat alleviated after the government began granting limited immunity for those paying smaller bribes.

Members of parliament are immune from prosecution during their tenure, preventing a number of allegations of corruption from going to trial. Corruption-related arrests and convictions were rare but increasing, but there was a sense that high-level cases were politically motivated.

The anticorruption agency declared that nearly all of the most senior officials complied with the requirement to declare their assets and income (and those of relatives, including spouses, parents, children, and live-in siblings). The agency is also required to review the asset declarations of public servants, including police officers and members of the military, and this was carried out in practice. The agency received 495 reports of improprieties during the first 10 months of the year, of which it referred more than 47 for criminal investigation.

There was no law providing for public access to government information. The far-reaching State Secrets Law inhibited freedom of information and government transparency while at the same time undermining accountability. The law also hindered citizen participation in policy discussions and government oversight.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Government Human Rights Bodies: The National Human Rights Commission (NHRC) is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. It reports directly to the parliament. The NHRC consists of three senior civil servants nominated by the president, Supreme Court, and parliament for six-year terms.

While the NHRC was not viewed as completely independent of political influence, it was considered somewhat effective relative to other agencies, and some of its reporting was viewed as credible.

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

The law states that no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status and that men and women shall be equal in political, economic, social, cultural fields, and family. The government generally enforced these provisions in practice.

Women

Rape and Domestic Violence: The criminal code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. If the victim is injured or is a minor, the maximum penalty is 10 years. Such a crime resulting in death, victimizing a child less than 14 years of age, or committed by a recidivist may result in 15 to 25 years' imprisonment or the death penalty. Gang rape is punishable by death. However, no law specifically prohibits spousal rape, which is commonly not recognized or prosecuted. Victims were often stigmatized and accused of not fulfilling their marital duties. As a result many NGOs blamed law enforcement officials for spousal rape victims' silence.

During the year there were 237 rape cases, in which 336 persons were convicted, according to the Supreme Court research center. However, according to NGOs police referred only a small number of rape cases for prosecution, generally claiming there was insufficient evidence. In addition NGOs alleged many rapes were not reported and claimed that police and judicial procedures were stressful to victims and tended to discourage reporting of the crime. Social stigma also deterred reporting.

Domestic violence remained a serious problem, particularly against women of low-income rural families. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions against offenders, including expulsion from the home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, this level of service was rarely provided because the police lacked sufficient funding and,

according to NGOs, were often reluctant to intervene in what was viewed as an internal family matter.

Arrestees were sometimes held under an administrative penalty law rather than for domestic abuse, in which case they were fined 15,000 tugrik (\$11) and detained for up to 72 hours before being released. In addition domestic violence cannot be reported anonymously; callers must give their names and location, thereby dissuading individuals from reporting domestic abuse due to fear their identity might be leaked to the perpetrator.

In 2010 there were 1,242 reported cases of domestic violence, nearly double the 720 in the previous year. The National Center against Violence (NCAV) believed that this was likely due to increased awareness of the resources available as a result of media campaigns about recent legislation changes. There have never been any domestic violence convictions due to the fact that, while domestic violence legislation exists, there is no implementing provision in the criminal code. Offenders are prosecuted under other criminal codes involving assault, infliction of injury to health, disorderly conduct, or hooliganism. The NCAV reported that of 18 clients requesting restraining orders, only two of the requests were granted. Moreover, the law fails to assign responsibility to particular agencies to execute restraining orders. The Mongolian Women's Legal Association reported that, as a result, restraining orders were poorly monitored and enforced. The law states restraining orders can be in effect only as long as victims are in a shelter, thus exposing them to danger upon their release.

The NCAV stated that in the first six months of the year, it provided temporary shelter to 237 persons at its six locations and provided psychological counseling to more than 1,300 individuals. The NCAV launched domestic violence prevention campaigns without governmental support. State and local governments financially supported the NCAV in providing services to domestic violence victims. In total the Ministry of Social Welfare and Labor (MSWL) provided 14.3 million tugrik (\$10,270) in the first nine months of the year to assist victims of domestic violence.

Sexual Harassment: There are no laws against sexual harassment. NGOs stated there was a lack of awareness within society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem.

Sex Tourism: According to women's NGOs, sex tourism from South Korea and Japan remained a problem.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and have the information and means to do so free from discrimination. The Ministry of Health reported that 83 percent of pregnant women had access to childbirth services, prenatal care, essential obstetric care, and postpartum care in 2009. According to the UN Population Fund's 2011 *State of the World Population Report*, 61 percent of women ages 15-49 had access to modern methods of contraception. However, observers stated that public reproductive health-care facilities had long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel.

Discrimination: The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases these rights were enjoyed in practice. In February the parliament enacted the Law on Gender Equality. This law sets mandatory quotas for the inclusion of women within the government and political parties. It also outlaws discrimination on the basis of sex, appearance, or age. Women represented approximately half of the workforce, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied mid-level positions in government and business or were involved in the creation and management of new trading and manufacturing businesses. The mandatory retirement age of 55 for women is five years lower than that for men.

Divorced women secured alimony payments under the family law, which details the rights and responsibilities regarding alimony and parenting. The former husband and wife evenly divided property and assets acquired during their marriage. In a majority of cases, the divorced wife retained custody of any children, but Monfemnet reported that divorced husbands often failed to pay child support without penalty. Women's activists said that because businesses were usually registered under the husband's name, ownership continued to be transferred automatically to the former husband.

There was no separate government agency to oversee women's rights; however, there was the National Gender Center under the Prime Minister's Office, a national council to coordinate policy and women's interests among ministries and NGOs, and a division for women and youth concerns within the MSWL. In the parliament, a Standing Committee on Social Policy, Education, and Science focused on gender matters.

Children

Birth Registration: Citizenship is derived from one's parents, and births generally were registered immediately, although this was not always the case for those living in rural areas or landfill dumpsites. Failure to register can result in the denial of public services and ineligibility to participate in the Human Development Fund, which entitles each registered citizen to a share of the nation's mineral wealth as well as social welfare benefits in the form of fixed monthly cash distributions. This particularly affected citizens moving from urban to rural areas, who often had to wait decades to register and receive social services in their new location.

Child Abuse: Child abuse was a significant problem, principally violence and sexual abuse. According to the governmental National Center for Children, both problems were most likely to occur within families.

Child abandonment was a problem; other children were orphaned or ran away from home as a result of parental abuse, much of it committed under the influence of alcohol. Police officials stated that children of abusive parents were sent to shelters, but some observers indicated many youths were sent back to abusive parents.

Sexual Exploitation of Children: Although against the law, the commercial sexual exploitation of children less than 18 years of age was a problem. According to NGOs there were instances where teenage girls were kidnapped, coerced, or deceived and forced to work as prostitutes. The minimum age for consensual sex is 16. Violators of the statutory rape law are subject to a penalty of up to three years in prison. The law prohibits the production, sale, or display of all pornography and carries a penalty of up to three months in prison. However, NGOs stated that child online pornography was not uncommon. Furthermore, NGOs reported there was no corresponding agency to deal with child pornography or sex advertisements on the Internet and that police did not investigate such crimes because they did not have the technical resources and were stretched thin with other duties.

Displaced Children: According to the MSWL, there were 38 temporary shelters and orphanages, six or seven of which were government-run. There were also seven social service day care centers caring for 168 children. More than 1,100 children lived in shelters countrywide. Approximately 120 children were living on the street and 130 at dump sites.

Minors who ran away from or were lost or abandoned by their parents were brought to the police-run Address Identification Center (AIC) in Ulaanbaatar to reconnect children with their families. With a capacity of 56, it sheltered 42 children in October. The AIC was unable to provide adequate medical attention to the children, many of whom could not access public health services for lack of an identification card. Since many of the children lacked identification cards, public hospitals refused to provide them even rudimentary treatment. The Law on the Provisional Detention of Homeless Children states that children should be kept in the AIC for no longer than seven days, yet in practice they were kept for up to 180 days. Children residing at the AIC for such long periods were not integrated into regular schools.

International Child Abduction: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish population was very small, and there were no reports of anti-Semitic acts during the year.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The labor law prohibits discrimination in employment and education against persons with disabilities. The law defines the types of disabilities as including those concerning physical, sensory, and mental but not intellectual attributes. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, the government did little to execute such measures, and in practice most persons with disabilities faced significant barriers to employment, education, and participation in public life.

In February 2010 a new law took effect that mandates standards of physical access for persons with disabilities to newly constructed public buildings; however, by year's end the law had not been applied. Government buildings and public

transportation remained largely inaccessible to persons with disabilities. Despite a law introducing standards for road construction, the persistence of open manholes, protruding obstacles, and unheeded crosswalks prevented many persons with disabilities from moving freely.

Persons with disabilities could not fully participate in the political process; little accommodation was made for such persons at polling stations. There were no persons with disabilities in the parliament. The Mongolian National Federation of Disabled People's Organization (MNFDPPO) estimated that, in the 2009 presidential election, only 34 percent of the electorate with disabilities cast a ballot. In comparison, the overall turnout rate for the voting age population was 55 percent. Persons with sight and hearing disabilities had difficulty remaining informed about public affairs due to a lack of accessible broadcast media.

The government implemented various policies to provide benefits to and promote respect for persons with disabilities. It provided tax benefits to enterprises that hired persons with disabilities. Additionally, the law requires workplaces to hire three persons with disabilities for every 50 employees or pay a fine. However, NGOs reported that enforcement was a problem because most companies were reluctant to hire disabled persons and preferred to pay the fine. Furthermore the government failed to employ individuals with disabilities in the ratio required of employers.

There were several specialized schools for youth with disabilities, but these students could also attend regular schools. However, in practice children with disabilities had limited access to education. The MNFDPO estimated that of 33,000 children with disabilities, 60 percent failed to complete secondary education. The MNFDPO encouraged vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses.

The law requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided benefits, the amount of financial assistance was low, and it did not reach all persons with disabilities owing to the absence of any system for such persons. The MNFDPO stated that benefits were provided in an ad hoc manner, often failing to meet the needs of the recipients.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Consensual same-sex sexual conduct is not specifically proscribed by law. However, AI and the International Lesbian and Gay Association criticized a section of the penal code that refers to “immoral gratification of sexual desires,” arguing that it could be used against persons engaging in same-sex sexual conduct. LGBT persons reported harassment and surveillance by police. Nonetheless, NGOs reported a marked improvement in police investigations of crimes against LGBT individuals as well as more respectful police treatment of victims.

There were reports that individuals were assaulted in public and at home, denied service from stores and nightclubs, and discriminated against in the workplace based on their sexual orientation or gender identity. There also were reports of abuse of persons held in police detention centers based on their sexual orientation. Some media outlets described gay men and lesbians in derogatory terms and associated them with HIV/AIDS, pedophilia, and the corruption of youth.

The government, while acknowledging that discrimination against LGBT individuals was a problem, stated that social acceptance of gay men and lesbians must be promoted before definitive steps can be taken.

The law concerning rape (Article 126 of the criminal code) addresses only rape of female persons; rape of transgender individuals is not a crime under the article. According to the Asia Foundation, there were cases in which ultranationalists raped transgender persons; in other incidents boys and men were raped. Since the criminal code does not recognize such persons as victims, it was difficult to prosecute such rapes.

Other Societal Violence or Discrimination

There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed. The public continued largely to associate HIV/AIDS with same-sex sexual activity, burdening victims with the attendant social stigma.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive

requirements, provides for the right to strike, and protects the right to collective bargaining. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without formal employment contracts. Nevertheless, all groups have the right to organize, but the law restricts certain public servants from striking. The law protects the right of workers to participate in trade union activities without discrimination, and the government protected this right in general. The law provides for reinstatement of workers fired for union activity, but the Confederation of Mongolian Trade Unions (CMTU) states that it was not always enforced.

The government prohibits third parties from organizing a strike. Moreover, persons employed in essential services, which the government defines as occupations critical for national defense and safety and includes police services, utilities, and transportation, do not have the right to strike. The list of essential services appeared to comply with International Labor Organization (ILO) guidelines.

The law on collective bargaining regulates relations among employers, employees, trade unions, and the government. Wages and other conditions of employment are set between employers, whether public or private, and employees, with trade union input in some cases. The government does not allow intervention in collective bargaining by third parties, and its own role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work.

Laws protecting the right to collective bargaining and freedom of association generally were enforced in practice, most often through the courts. The tripartite Labor Dispute Settlement Committee resolves disputes between workers and management.

In late December South Gobi Sands, a foreign-owned mining company, was accused by former laid-off employees and the CMTU of dismissing 49 of its employees allegedly for wanting to form a union to protect their rights to a clean and safe working environment and to ensure adequate social protection. South Gobi Sands countered that the layoffs were a result of financial difficulties encountered from a reduction in off-work days coupled with salary increases.

In another case the administration failed to enforce a 2009 court order requiring the compensation and rehiring of striking Aero Mongolia mechanics. When the strikers subsequently picketed, police forcibly removed the striking workers from the grounds while threatening arrest. The government also failed to enforce the

law on employment stating that foreigners can be hired only for tasks that Mongolians cannot carry out--the Immigration Agency granted a work visa and the MSWL a work permit to a Dutch engineer to replace the striking workers. After the Supreme Court ruled against it, Aero Mongolia filed a new case during the year claiming the union to be illegal. The fired mechanics initially reported being blacklisted as a result of their union activities. Management ultimately hired back most but not all of the workers.

There were also some violations of collective bargaining rights. In a case involving the Federated Food and Agriculture Union, a manufacturing enterprise fired 20 workers for protesting against mismanagement of the company. The matter continued at year's end.

In a recent case, the mining agreement over Tavan Tolgoi was challenged by CMTU on the basis that it was formed outside the tripartite process without agreement between employers and employees on matters relating to workers' rights and social protections. The CMTU was also dissatisfied with the Ulaanbaatar city governor, who had not appointed an arbitrator to resolve such issues. The CMTU's main goal was to ensure that Mongolian labor (as opposed to foreign labor) predominated on the project. While hiring companies argued there was not a sufficient pool of skilled workers for technical and semiskilled labor, CMTU countered these skilled workers were available and underutilized. Negotiations continued between the development companies, the government, and CMTU on balancing the interests of all concerned parties.

b. Prohibition of Forced or Compulsory Labor

The law specifically prohibits forced or compulsory labor, including by children. However, there were isolated reports that such practices occurred.

During the year prison labor was used on construction of the Ministry of Justice and Home Affairs building, during which one prisoner died in an accident. According to press reports, a criminal case was opened and the accident was under investigation. Opposition parties also announced that they would make sure that prisoners' bank accounts were checked to verify if prisoners were being paid for their labor.

The NHRC stated a decline in forced labor within military units, whereby military officials subjected subordinates to cutting firewood, digging ditches, or working at construction sites owned by the officials' friends or relatives. During the year the

NHRC signed a memorandum of understanding with the Mongolian Armed Forces, National Police, GEACD, Border Force, and State Specialized Inspection Agency not to use forced labor.

An estimated 1,500 North Korean laborers were employed in the fields of mining, factory work, utilities, transportation, construction, customer service, and health. There was concern that some North Korean workers were not free to leave their employment or complain about unacceptable work conditions. Also, their freedom of movement and communication was restricted, and they received only an unknown fraction of the money paid to the North Korean government for their work.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under the age of 14 from working; those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. The workweek for children 16 and 17 years of age is capped at 36 hours. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction.

Labor inspectors assigned to regional and local offices are responsible for enforcement of these prohibitions and all other labor regulations. Inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited due to the small number of labor inspectors and the growing number of privately owned enterprises. Inspectors generally did not conduct inspections in the informal sector.

Forced child labor occurred in the construction and mining (coal, gold, and fluorspar mineral) sectors, although largely if not exclusively in the informal, artisanal mining sector.

Children worked informally in petty trade, construction, hotels, restaurants, and unauthorized small-scale mining as well as scavenging in dumpsites and herding animals. While statistics were limited, widespread alcoholism, poverty, and parental abandonment made it necessary for many children to support themselves. The National Center for Children estimated the number of children in the labor force as high as 77,000; up to 90 percent of these children were involved in

traditional animal husbandry, while only 1 percent was estimated to be involved in mining. While the government approved the National Program for the Worst Forms of Child Labor and revised its labor law during the year, it had yet to allocate resources to deal with the issue. When the ILO program to combat the worst forms of child labor concluded in 2010, all of the joint ILO-government initiatives were discontinued or drastically reduced due to lack of funding. Most of the ongoing programs were funded by district and city governments, with very limited support from the national level.

International organizations continued to voice concern over child jockeys in horseracing. According to NHRC reports, more than 30,000 child jockeys competed in horse races each year. Children commonly learn to ride horses at age four or five, and young children traditionally serve as jockeys during the national Naadam festival, where races range from two to nearly 20 miles. The state bans racing with child jockeys during the coldest period (October 18 through February 13), and there are regulations requiring adequate headwear. With increased NGO monitoring during horseracing events, there reportedly was greater adherence to these regulations.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The legal minimum wage was 140,400 tugrik (\$100) per month. National poverty estimates are based on population-weighted subgroup estimates from household surveys. The surveys indicated approximately one-third of the population lived on 1,618 tugrik (\$1.16) a day or less and were unable to feed themselves sufficiently. The minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Labor, did not provide a decent standard of living. The problem was exacerbated by significant inflation over the past year. Many workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage was reset annually by the MSWL in consultation with trade union representatives and employers.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law

from working overtime. There is no law mandating sick leave for workers. According to the government, employers set their own rules in this regard.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities enforced this right.

These laws governing minimum wage and working hours generally were enforced, but enforcement of safety standards was inadequate. Although inspections were conducted both proactively and in response to complaints filed, the CMTU stated the MSWL had an insufficient number of inspectors. A CMTU representative also stated that fines imposed on companies not complying with labor standards were insufficient to induce management to resolve problems cited by inspectors.

The near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the construction, mining, and power sectors. While industrial accidents increased alongside industrial and mining sector growth, most accidents occurred at unofficial construction sites and private mining areas. Large multinational projects, such as those at Tavan Tolgoi and Oyu Tolgoi, were better at ensuring safety standards.

Foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations. The MSWL did not monitor the working or living conditions of Chinese or North Korean laborers. North Korean worker conditions were not fully known, and secrecy surrounded the contractual agreements, labor rights, and compensation of these workers. However, observers stated that North Korean laborers likely failed to receive the minimum wage. In press reports, it was reported that Mongolian companies paid North Korean workers' wages directly to the government of North Korea. NGOs reported that Mongolian companies wishing to employ North Korean workers could do so through mediator companies. There were no official reports on labor exploitation, but there were several cases in which workers, mostly Chinese, were deported without receiving their wages. In one case an employer withheld food from approximately 40 Chinese workers. Such instances were confirmed as labor exploitation only if they went to court, but few if any cases ever moved past the investigatory phase before the foreign workers raising the complaints were deported.