

MONGOLIA 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Mongolia is a multiparty parliamentary democracy governed by a democratically elected government. The presidential elections held on June 26 and July 7 and parliamentary election in June 2016 were considered free and fair, although some observers expressed concern during the presidential elections about allegations of vote-buying and candidates' involvement in corruption.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: police abuse of prisoners and detainees; corruption; violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; and harsh labor conditions for certain foreign contract workers, especially those from the DPRK.

Government steps to punish officials who committed abuses or to remedy discrimination were inconsistent.

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

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

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

b. Disappearance

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

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

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

According to the Ministry of Justice (MOJ), individuals refused to pursue criminal charges in 21 of 25 complaints reported to the National Police Agency (NPA) on the use of force, pressure, or torture by a public official, police officer, or investigator as of August 2016. Two of the four remaining complaints were transferred to another jurisdiction, one was dismissed, and one remained under investigation as of September 2016. The NPA also received 24 complaints of the use of force against the health or body of an individual by a public official, police officer, or investigator. Of these, 15 remained under investigation and six were submitted to the Prosecutor General's Office as of September 2016. The NPA reported that prisoners and detainees submitted 16 of these complaints of abuse as of June.

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

Local police are responsible for investigating allegations of abuse and torture. The NPA has a special division to investigate police officers accused of torture. The NHRC and NGOs expressed concerns about possible conflicts of interest in cases involving alleged police abuse or torture, which could undermine public confidence in investigations.

Under the new criminal code that came into effect on July 1, the scope of individuals subject to prosecution for official abuse or torture was expanded to include not just police detectives and investigators, but all public officials. This new code covers both physical and psychological abuse; however, the maximum punishment for torture decreased from a prison sentence of 15 years to five years. Although law enforcement officials are liable for intentional infliction of severe bodily injury, prosecutions of this crime were rare. The law states that prohibited acts do not constitute a crime when committed in accordance with an order by a superior in the course of duty. The law provides that the person who gave an illegal order is criminally liable for the harm caused, but prosecutions were rare. According to the NHRC, prosecutors, and judges, the law effectively provides immunity to law enforcement officials allegedly engaged in coercing confessions

at the behest of investigators or prosecutors. The NHRC also indicated that authorities sometimes abandoned complaints of alleged psychological torture either for lack of evidence or because the degree of injury could not be determined. Moreover, witnesses were generally themselves detainees or prisoners and were under great pressure not to testify, including by threats against family and threats of additional charges with longer potential sentences.

As of September 2016, the NPA reported two complaints of rape by a public official. The NPA did not accept one as a criminal case; the other remained under investigation.

Prison and Detention Center Conditions

Despite improvements in recent years, conditions remained poor and in some cases harsh in some prisons and pretrial detention centers administered by the General Executive Agency of Court Decisions (GEACD) as well as in a GEACD-administered detention facility for persons awaiting deportation.

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

The GEACD's 24 prisons and 28 pretrial detention centers were generally not overcrowded. Nonetheless, NGOs and government officials reported that insufficient medical care, clothing, bedding, food, potable water, heating, lighting, ventilation, sanitary facilities, and accommodations for persons with disabilities were often problems in older prisons and pretrial detention centers. These problems were often worse in rural areas. New or newly renovated facilities generally had better conditions. Conditions in some police-operated alcohol detoxification centers were poor.

The GEACD reported 10 deaths in prisons and no deaths in pretrial detention facilities as of September. According to the GEACD, 34 prisoners contracted tuberculosis as of September. Correctional officials routinely released terminally ill patients shortly before death, which the Prison Fellowship of Mongolia alleged led to misleadingly low prisoner death statistics.

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

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

d. Arbitrary Arrest or Detention

The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and government agencies generally observed these prohibitions. The General Intelligence Agency (GIA) sometimes detained suspects for questioning without charge, but the new criminal code that went into effect July 1 required that a prosecutor supervise all detention.

Role of the Police and Security Apparatus

The NPA and the General Authority for Border Protection, which operate under the MOJ, are principally responsible for internal security. The GIA, whose director reports to the prime minister, assists the aforementioned forces with internal security as well as foreign intelligence collection and operations.

The armed forces report to the Ministry of Defense and are responsible for national defense. The armed forces assist internal security forces in providing domestic emergency assistance and disaster relief.

Civilian authorities maintained control over both internal and external security forces, but mechanisms to investigate allegations of police abuses remained inadequate. There were reports police sometimes abused suspects.

Arrest Procedures and Treatment of Detainees

An evidence-based, prosecutor-approved warrant is generally required to arrest a suspect on criminal grounds. Within 24 hours of an arrest, a prosecutor must present a request stating the grounds and reasons for the arrest to a judge, who must decide within 48 hours whether to prolong the detention or release the

suspect. The arresting authority must notify a suspect's family within six hours of an arrest. A "pressing circumstances" exception in the law allows police to arrest suspects without a warrant. Examples of exceptions include murder or grave bodily injury, serious property damage, hot pursuit of a fleeing suspect, and suspicion that destruction of evidence would occur. In such cases a prosecutor must approve the arrest within 24 hours, and a judge must approve the arrest within the normal 48-hour period. If 72 hours pass after an arrest and a judge has not made a decision, police must release the suspect. Upon release authorities must inform the suspect of the reasons for the arrest and detention.

The NHRC reported that investigative agencies occasionally detained suspects without judicial authorization and sometimes secretly when conducting investigations, and police tended to detain such suspects despite the availability of other methods of restraint, including bail (with the approval of a prosecutor), another person's personal guarantee (a signed note in which the suspect pledges not to depart), and military surveillance. The personal guarantee system allows relatives to vouch for an accused family member. Unlike bail, the system does not involve pledged security in exchange for release. This system is available for all crimes, although it was usually applied to those accused of less serious offenses.

Despite these problems authorities generally charged and informed detainees of the charges promptly, and informed them of their right to counsel. Maximum pretrial detention with a court order is 18 months. Detainees generally had prompt access to family members, although repeated transfers or detention in remote locations undermined this right. Nevertheless, in one case involving the 1998 murder of democracy leader S. Zorig, a defendant spent more than two years in pretrial detention before the Supreme Court convicted him in August.

A detainee has the right to an attorney during pretrial detention and all subsequent stages of the legal process, including after sentencing. If a defendant does not engage an attorney, the government must appoint one if the defendant suffers from a physical or mental disability that would hinder self-defense, is a minor, does not have command of the Mongolian language, or has a conflict of interest with existing defense counsel or other defendants. The law does not provide for the indigent status of a defendant. Detainees were reportedly more aware of their right to legal counsel than in the past, but misperceptions limited their use of this right. For example, detainees were frequently unaware they could exercise this right from the start of the legal process and frequently did not assert it unless and until their cases reached trial. Moreover, in some cases repeated transfers or detention in remote locations made access to legal counsel difficult.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but NGOs and private businesses reported that judicial corruption and third-party influence continued. Courts rarely entered not guilty verdicts or dismissed criminal charges over the objection of prosecutors, even when full trials had produced no substantial evidence of guilt. Courts often returned criminal cases to prosecutors when acquittal appeared more appropriate. As a result some serious criminal cases cycled for years between prosecutors and the courts without resolution.

Trial Procedures

The law provides for the right to a fair and public trial without undue delay, and an independent judiciary generally enforced this right. Defendants are presumed innocent and have the right to be informed of the charges against them. Courts provide free interpretation services as needed, including sign language interpretation, unless a court decides to recover procedural expenses from a defendant found guilty. The law also extends to all defendants the right to be present at their trial in the court of first instance (but not during appeals); to communicate with an attorney of their choice (or one provided at public expense); to receive adequate time and facilities to prepare a defense; to confront witnesses; to present one's own witnesses and evidence; to not be compelled to testify or confess guilt; and to appeal. NGOs and observers reported that authorities sometimes did not observe these rights and bribery of judges, prosecutors, and expert witnesses sometimes contributed to unwarranted convictions, dismissals, or reductions of sentences.

Procedural due process errors and inconsistencies often plagued trials. Although the number of government-provided defense lawyers was adequate, their quality and experience were uneven, so that many defendants lacked adequate legal representation. Judges often relied on confessions with little corroborating evidence. Furthermore, NGOs reported witness intimidation by government authorities and law enforcement officers, limited public access to trials (often due to lack of space), a lack of transparency in courts' decision-making processes, and a low level of awareness regarding the effect of new criminal and procedural laws.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

Property Restitution

According to Amnesty International, seminomadic herders reported some private and government-owned mining interests interfered with their access to traditional pasturelands. Some herders reported being forced to relocate after their pastureland was sold and mining companies denied them access to water wells.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, and the government generally respected this right, although it imposed some content restrictions, licensing could be problematic, and there was reported harassment of journalists. These problems contributed to occasional self-censorship.

Press and Media Freedom: Independent media were active and expressed a wide variety of views largely without restriction.

Globe International, a local NGO specializing in freedom of the press and media, reported that authorities pressured some local media. In Orkhon Province, for example, there were claims law enforcement officers intimidated journalists, demanded disclosure of information sources or the identities of persons who paid for media reports, and threatened to close media operations. There were also unconfirmed reports politicians and large business entities offered financial incentives to media outlets to influence their reporting.

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

Press representatives stated they sometimes practiced self-censorship to avoid government or political party harassment.

Libel/Slander Laws: Press representatives faced libel complaints by government authorities and private persons or organizations. Under the new criminal code and law on petty offenses, the majority of libel and slander cases were no longer considered criminal offenses but were prosecuted as petty offenses and were punishable by fines ranging from two million to 20 million tugriks (\$815 to \$8,150). Globe International noted that freedom of speech improved with this amendment, although the fines were disproportionately high. The law provides an exception during election campaign season. It provides a fine of 450,000 to 5.4 million tugriks (\$185 to \$2,200) or imprisonment from one month to one year for spreading false information that defames political parties, coalitions, or candidates running for office. The law imposes additional restrictions against media during campaign periods, including suspending a media organization's license for six months for defamation and dissemination of false information.

In July an Ulaanbaatar Special Inspection Department official made an official police complaint of libel after a journalist reported the official was on leave during a food poisoning outbreak. The official demanded 20 million tugriks (\$8,150) from the journalist. Although the district police found the journalist's report was accurate and did not involve libel, the official appealed the decision to the district prosecutor. As of September police were re-investigating the official's complaint by order of the district prosecutor.

Actions to Expand Freedom of Expression, including for the media: Under the new criminal code, the law provides for a fine from 450 thousand to 2.7 million tugriks (\$185 to \$1,100), revocation of the right to travel from one to six months, or one to six months' imprisonment if an individual intimidated, threatened with force, or paid an entity to withhold information affecting either the individual's or others' legal interests.

Internet Freedom

By law individuals and groups may engage in the peaceful expression of views on the internet. The government, however, sometimes restricted internet content, for example, for pornography or extreme violence. It maintained a list of blocked websites and added sites to the list for alleged violations of relevant laws and regulations, including those relating to intellectual property. As of September 18, 554 websites were blocked from public access for allegedly breaching the law.

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

According to Globe International, there were reports police interviewed individuals following complaints they made derogatory online posts and comments. Such cases were routinely resolved outside the formal court process. For example, the parties might agree on the removal of the content, the issuance of an apology, or payment of a fine.

Internet access was widely available to the country's urban population and was increasingly more available in rural areas. According to the International Telecommunication Union, more than 22 percent of the population accessed the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

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

Freedom of Peaceful Assembly

The law provides for freedom of peaceful assembly, and the government generally respected this right. The Ulaanbaatar city government, however, banned public

entertainment and sporting events during June 26-28 and July 6-8 due to the presidential elections, for the stated purpose of preserving public order.

Freedom of Association

The law provides for the freedom of association, and the government generally respected this right.

c. Freedom of Religion

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

d. Freedom of Movement

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

Foreign Travel: Under the new criminal code, at the request of the Prosecutor General's Office, courts can impose an exit ban to prevent the departure of persons who are plotting criminal activity. The new law requires that those subject to an exit ban receive timely notification. Prior to the law's passage, prosecutors had the authority to impose exit bans without consulting a judge and commonly exercised this authority. Authorities do not allow individuals under exit bans to leave until the disputes leading to the bans are resolved administratively or by court decision, and bans may remain in place for years. Although the government annulled more than 300 exit bans in October 2016, according to reports, 500 persons, including several foreign residents, remained banned from leaving the country.

Protection of Refugees

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

Employment: The law does not afford a specific legal status to refugees and asylum seekers; by default, therefore, they were usually treated as irregular migrants and were not issued work permits.

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

Section 3. Freedom to Participate in the Political Process

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

Elections and Political Participation

Recent Elections: The most recent national elections were the June 26 and July 7 presidential elections and the June 2016 parliamentary election. In a July preliminary report, an Organization for Security and Cooperation in Europe (OSCE) limited election observation mission assessed the presidential elections were orderly and efficient. The mission, however, noted that the elections were characterized by allegations of vote buying and candidates' involvement in corruption. The OSCE noted there was legal uncertainty surrounding the first-ever July presidential runoff because the electoral legal framework contained few runoff provisions. While the General Election Commission issued clarifying regulations in a timely manner, there was widespread perception that parties blurred the line between governing and campaigning between the two voting rounds.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not always implement the law effectively, and corruption continued at all levels. Some officials engaged in corrupt practices with impunity. In March the government developed a three-year action plan to implement the National Program Combatting Corruption adopted in November 2016. The new criminal code introduced stricter liability for corruption and corruption-related offenses for public

servants and government officials. Private enterprises reported instances in which government employees pressured them to pay bribes to act on applications, obtain permits, and complete registrations.

Members of parliament are immune from prosecution during their tenures.

Factors contributing to corruption included conflicts of interest, lack of transparency, lack of access to information, an inadequate civil service system, and weak government control of key institutions.

The Independent Authority against Corruption (IAAC) is the principal agency responsible for investigating corruption, assisted at times by the NPA's Organized Crime Division. Although questions about the IAAC's political impartiality persisted, the public viewed the agency as effective. It developed a standard operating procedure to provide for correct handling of investigations of corruption allegations. Moreover, the IAAC reformed the government tender process by permitting only electronic tender submissions and created a black list of companies that violated rules on government procurement.

Corruption: Corruption remained widespread. In October an appellate court confirmed a lower criminal court ruling that found that Ganbaatar Sainkhoo, the Mongolian People's Revolutionary Party's presidential candidate and former member of parliament, accepted a donation of 50 million Korean won (\$46,000) from a Korean citizen representing the Unification Church during the election campaign in violation of the country's election law.

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

Public officials must electronically file a private interest declaration with the IAAC within 30 days of appointment or election and annually thereafter during their terms of public service. The law provides that such declarations shall be accessible to the public and prescribes a range of administrative sanctions and disciplinary actions. Violators may receive formal warnings, face salary reductions, or be dismissed from their positions. The IAAC is required to review the asset

declarations of public servants, including police officers and members of the military. According to the IAAC, all public officials filed the required documentation in a timely manner.

Officials with authority to spend government funds are required to report expenditures and audit results on their ministry and agency websites. All transactions above one million tugriks (\$410) are subject to reporting. Plans for budgets, loans, or bonds must be registered with the Ministry of Finance for monitoring and tracking, even after the originating officials have left their positions.

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

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

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

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

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

Women

Rape and Domestic Violence: The criminal code outlaws sexual intercourse through physical violence, or threat of violence, and provides for sentences of one to 20 years' imprisonment or life imprisonment, depending on the circumstances. Under the new criminal code, spousal rape was criminalized.

Although domestic violence remained a serious and widespread problem, the new criminal code for the first time criminalized such offenses. Perpetrators can now be punished under both administrative and criminal law, including with imprisonment. The government redesigned its nationwide database of domestic violence perpetrators, and those who commit a second domestic violence offense are automatically charged under criminal law.

Although the law provides alternative measures of protection for victims of domestic abuse, including restraining orders, procedural and other barriers make these difficult to obtain and enforce.

The nongovernmental National Center against Violence (NCAV) reported during the year that police response to domestic violence complaints improved, but prosecution continued to lag. Both the Prevention of Domestic Violence and Crimes against Children Division and the NCAV noted increased reporting of domestic violence by third parties and police responsiveness, which it also attributed to increased government and public awareness of the problem. Combating domestic violence is included in the accredited training curriculum of the law enforcement academy and in all police officer position descriptions.

According to NCAV there were 17 shelters and six one-stop service centers run by a variety of NGOs, local government agencies, and hospitals, compared with seven shelters in 2016. The one-stop service centers, located primarily at hospitals, provided emergency shelter to victims for up to 72 hours. Although three new shelters opened in rural areas, the continued relatively small number of shelters located in these areas presented a challenge for domestic violence victims seeking assistance.

Sexual Harassment: The new criminal code failed to include sexual harassment as a crime despite NGO advocacy in support of such a provision. NGOs stated there was a lack of awareness and consensus within society of what constituted inappropriate behavior, making it difficult to gauge the extent of the problem.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates

on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law provides the same legal status and rights to women and men, including equal pay for equal work and equal access to education. These rights were generally observed, although women faced discrimination in employment (see section 7.d.).

The law sets mandatory minimum quotas for women in the government and political parties. It also outlaws discrimination based on sex, appearance, or age, although some NGOs noted that authorities did not enforce this provision.

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

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

Children

Birth Registration: Citizenship is derived from one's parents, and births were generally registered within one to three weeks, although residents of rural areas sometimes registered their children six to eight weeks after birth. Failure to register can result in the denial of public services.

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

Child abuse was a significant problem and consisted principally of domestic violence and sexual abuse. The government's Family, Child, and Youth Development Authority (FCYDA) noted that reporting of child abuse had increased due to new laws that oblige citizens to report such abuse. The FCYDA also noted its continued operation of a hotline to report child abuse and the recent opening of an emergency service center, including a shelter, for child victims of abuse.

Child abandonment was also a problem. Some children were orphaned or ran away from home because of poverty-related neglect or parental abuse. Police officials stated they sent children of abusive parents to shelters, but some observers indicated that many youths were returned to abusive parents.

Each province and all of Ulaanbaatar's district police offices had a specialized police officer appointed to investigate crimes against, or committed by, juveniles.

The Crime Prevention Council, in conjunction with the MOJ, formalized 609 local task forces established since 2003 to prevent child abuse.

Early and Forced Marriage: The legal minimum age for marriage is 18 years, with court-approved exceptions for minors between 16 and 18 years who also obtain the consent of parents or guardians. There were no reports of underage or forced marriages.

Sexual Exploitation of Children: Although it was illegal, the commercial sexual exploitation of children younger than 18 years was a problem. According to NGOs there were instances in which teenage girls were kidnapped, coerced, or deceived and forced to work in prostitution. Sex tourism from South Korea and Japan reportedly remained a problem. The minimum age for consensual sex is 16 years. Violators of the statutory rape law (defined as sexual intercourse with a person younger than 16 years not involving physical violence or the threat of violence) are subject to a maximum penalty of five years in prison.

NGOs stated that online child pornography was relatively common. Although police took steps to improve their capacity to investigate such crimes, technical expertise remained limited. Of 192 reported cases of child sexual abuse, only 22 criminal cases were formally opened for further investigation. The penalty for engaging children in pornography under the new criminal code was increased from a maximum sentence of five years to a maximum of eight years' imprisonment.

Institutionalized Children: According to the Ministry of Education, Culture, Science, and Sports, approximately 35,000 children lived in more than 500 boarding schools during the 2016-17 academic year. These schools were located primarily in provincial centers to serve students from nomadic families or rural areas. Some schools housed children in overcrowded dormitories, and many did not have adequate medical facilities. Government officials, NGOs, and international organizations expressed concerns about child abuse in the dormitories and building safety.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

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

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and defines disabilities as restrictions due to permanent impairment of the body or intellectual, mental, or sensory capacities. Nonetheless, prohibitions against discrimination in employment against persons with disabilities are limited (see section 7.d.). The president has an adviser on disabilities issues. In June parliament established the Council for Implementing Rights of Persons with Disabilities, to be chaired by the prime minister. This national council was created to provide for enforcement of the persons with disabilities law; provide equal participation; and improve social, educational, health, and labor services for persons with disabilities. According to NGOs public officials were more receptive to disability issues than in the past.

There is no explicit prohibition of discrimination in education, but the law charges the government with creating conditions to provide students with disabilities an

education. Students with disabilities are by law allowed to attend mainstream schools. Nevertheless, children with disabilities faced significant barriers to education. NGOs expressed concern that children with disabilities in rural areas were more likely to drop out of school because most separate schools for students with disabilities were located in Ulaanbaatar.

Although the law mandates standards for physical access to newly constructed public buildings by persons with disabilities, most new buildings were not constructed in compliance with the law. Following revisions to the law in 2016, a representative of persons with disabilities serves on the state commission for inspecting standards of new buildings. According to the MNFB, this resulted in better enforcement of physical access standards. Public transport remained largely inaccessible to persons with disabilities. Emergency services were often inaccessible to blind and deaf persons because service providers lacked trained personnel and appropriate technologies. Moreover, domestic violence shelters were not accessible to persons with disabilities.

Ballots in braille were readily available in the June and July presidential elections and the 2016 parliamentary election.

The Department for the Development of Persons with Disabilities within the Ministry of Labor and Social Protection is responsible for developing and implementing employment policies and projects for persons with disabilities.

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

The new criminal code prohibits discrimination based on sexual orientation, gender identity, nationality, language, race, age, gender, social status, professional position, religion, education, or medical status. Violators are subject to a maximum penalty of five years' imprisonment. As of September no cases had been prosecuted under the new law. The law permits persons who have had gender reassignment surgery to have their birth certificate and national identity card reissued to reflect the change, and the LGBT Center reported that transgender persons successfully applied for new identity cards under this provision.

NGOs continued to report that LGBTI individuals faced violence and discrimination both in public and at home based on their sexual orientation or gender identity. There were reports LGBTI persons faced greater discrimination and fear in rural areas than in Ulaanbaatar due to less public awareness and limited

online media accessibility in rural areas. The LGBT Center received a number of reports of violence against LGBTI persons, most involving young LGBTI persons who either came out to their families or were discovered by their families to be LGBTI.

The LGBT Center noted that the new criminal code increased police and public awareness of abuses faced by the LGBTI community, and specialized police training on responding to hate crimes increased police capacity to respond to problems affecting LGBTI persons. There were still, however, cases involving police harassment of LGBTI victims of alleged crimes. Charges were frequently dismissed when a crime victim was an LGBTI person.

There were reports of discrimination against LGBTI persons in employment (see section 7.d.).

HIV and AIDS Social Stigma

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

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

The law bars persons employed in essential services, defined as occupations critical for national defense and safety, including police, utilities, and transportation services, from striking, and prohibits third parties from organizing strikes. The law prohibits strikes unrelated to matters regulated by the collective agreement.

Laws providing for the rights of collective bargaining and freedom of association generally were enforced. Penalties, largely fines, for violations of freedom of association and collective bargaining provisions were not sufficient to deter violations. The Confederation of Mongolian Trade Unions (CMTU) stated that some employees faced obstacles to forming or joining unions or were prohibited from participating in union activities during work hours. The CMTU also stated that workers terminated for union activity were not always reinstated. The CMTU further reported that some employers took steps to weaken existing unions. For example, some companies used the portion of employees' salaries deducted for union dues for other purposes and did not forward the monies to the unions. Despite a Supreme Court ruling requiring government organizations to forward collected union dues, Arkhangai Province had not taken action to resume the collection and forwarding of union dues as of September, according to the CMTU. The CMTU also reported some employers refused to conclude collective bargaining agreements.

The tripartite Labor Dispute Settlement Committee resolved the majority of disputes between individual workers and management. CMTU reported that the court process was so lengthy many workers abandoned their cases due to time and expense.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor, except as part of a legally imposed sentence. The new criminal code also criminalizes forced labor. Although the law provides for a fine or imprisonment for forced labor offenses, penalties are not sufficient to deter violations. NGOs and government officials noted that the low number of inspectors, insufficient funding, and a lack of public awareness limited effective enforcement of the law.

There were isolated reports forced labor occurred, including forced child labor. There were reports that workers from the Democratic People's Republic of Korea (DPRK) and China were vulnerable to forced labor in construction, production, agriculture, forestry, fishing, hunting, wholesale and retail trade, automobile maintenance, and mining industries. Press reports suggested, and government officials confirmed, that a large proportion of wages due to laborers from the DPRK were paid to the DPRK government, and workers' freedom of movement was limited by requirements that they travel in the company of a DPRK supervisor (see section 7.e.).

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children younger than 14 years from working. By law at 14 years children may work a maximum of 30 hours per week, with parental and government permission, to acquire vocational training and work experience. At 15 years children may conclude an employment contract with permission from parents or guardians. According to a Ministry of Labor and Social Protection order, children younger than 18 years may not work in hazardous occupations such as mining and construction; engage in arduous work; serve as child jockeys during the winter (children may be jockeys beginning at seven years during other seasons); participate in cultural, circus, or folk art performances at night; work in businesses that sell alcoholic beverages; or engage in roadside vending.

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

The new criminal code's child protection provisions cover hazardous child labor. Employing children in hazardous work is punishable by a maximum sentence of one year's imprisonment. Persons who involved children in "vagrancy and beggary" are subject to a maximum five years' imprisonment. The government did not effectively enforce the law; there were no government prosecutions or convictions of forced child labor during the year.

Because the government did not adopt a new National Action Plan on Eliminating the Hazardous Work of Children, there was no government funding for programs to prevent child labor and support employment of adult family members during the year. In 2016 the FCYDA, with foreign support, provided training in six provinces on child labor, including site visits to artisanal mining locations. The General Agency for Specialized Inspection (GASI), the country's main inspection authority, reported the sites as "child free" but expressed frustration this was likely due to a legal provision requiring five days' advance notice for any visit or inspection.

Child labor, including isolated cases of forced child labor, occurred in informal artisanal mining, forced begging, agriculture, hotels and restaurants, industry, petty trade, scavenging, event or street contortionism (a local art form), and the illicit sex

trade (see section 6, Children). The FCYDA, for example, reported that 99 children in Ulaanbaatar were engaged in prohibited labor in informal sectors, such as roadside vending.

International organizations continued to voice concern about child jockeys in horseracing. Children commonly learned to ride horses at age four or five years, and young children traditionally served as jockeys during the annual Naadam festival, where races ranged from two to nearly 20 miles. According to GASI 64,355 child jockeys (of whom 1,241 were younger than the required minimum age of seven years) raced during the Naadam festival. Although the government in 2016 prohibited child jockeys from working from November 1 to May 1, it amended this prohibition to apply only to “winter.” The NHRC, NGOs, and human rights activists criticized this change, because the provision is vague and allows child horse jockeys to work as early as January. Despite the “winter” ban, during February and March, for example, 50 children fell from horses, resulting in five severe injuries and one death. Regulations require insurance, adequate headgear, and chest protection, but despite greater government and public attention to safety, enforcement was inconsistent. Observers reported sufficient compliance with safety regulations at national races (but less compliance at community and regional events). The FCYDA and GASI maintained a database to register all jockeys participating in officially sanctioned national and local races. The FCYDA for the first time collected biometric information to better track jockeys and prevent children younger than seven years from working as jockeys.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings.

d. Discrimination with Respect to Employment and Occupation

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

The government enforced the law in a limited manner, and discrimination in employment and occupation based on sex and disability, as well as on sexual orientation, gender identity, and HIV status, occurred.

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

The NHRC found that women were less likely to be hired, promoted, or given professional development opportunities. There were also reports some employers refused to hire overweight individuals falsely claiming they could not perform essential job functions.

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

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

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

e. Acceptable Conditions of Work

The minimum wage was 240 thousand tugriks (\$100) per month and applied to both public- and private-sector workers. According to the CMTU, the minimum wage did not provide an adequate standard of living.

In September the CMTU officially filed a collective bargaining dispute with the government. The CMTU claimed its tripartite agreement with the government and the National Employer's Federation regarding salaries, working conditions, and full employment was not properly enforced.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards, which apply equally to local and foreign workers. During the year the government adopted four new standards related to labor safety and hygiene, which GASI stated strengthened regulations. Nonetheless, GASI noted that many standards remained outdated.

Labor inspectors assigned to GASI's regional and local offices are responsible for enforcement of all labor regulations and have the authority to compel immediate compliance. Enforcement of laws governing minimum wage, working hours, and occupational safety and health was limited due to the small number of labor inspectors. According to GASI neither the penalty nor the number of inspectors was sufficient to enforce compliance. GASI reported that its inspectors needed better training on investigative techniques and evidence collection. The new law on petty offenses increased fines for violations; however, GASI stated the law also increased the investigative workload and weakened the role of its inspectors. Inspectors generally did not conduct inspections in the informal sector.

GASI acknowledged that fines imposed on companies for not complying with labor standards or for concealing accidents were insufficient to induce management to resolve problems. The CMTU also reported that government agencies and enterprises often failed to comply with regulations requiring them to allocate budget resources to workplace safety. Moreover, safety experts responsible for labor safety and health were often inexperienced or had not received training.

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

Many workers received less than the minimum wage, particularly at smaller companies in rural areas. The CMTU also expressed concern that workers in the construction sector, in which work is constrained to a few months because of the extreme winters, were sometimes pressured to work long hours, increasing the risk of accidents and injuries.

The CMTU continued to raise concerns about the large number of foreigners employed at the Oyu Tolgoi and Tavan Tolgoi mines, seeking to assure that citizen labor predominated. Although employers argued that the local pool of skilled and semiskilled labor was inadequate, the CMTU countered that skilled workers were available but underutilized. Labor representatives also stated that foreign workers received salaries many times higher than equally qualified citizens doing the same jobs.

Many foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations. GASI reported it inspected workplace health and safety conditions for foreign workers but did not have the authority to monitor wages or inspect living conditions.

The status of an estimated 1,130 workers from the DPRK was not fully known; secrecy surrounded their contractual agreements, labor rights, and compensation. NGOs reported that the government assumed little jurisdiction over DPRK workers' contracts, relying on agreements with the DPRK government and the actions of mediator companies. These workers were employed in many sectors, especially during the summer, reportedly in harsh working and living conditions. Observers and government officials stated that DPRK laborers likely failed to receive the minimum wage, often worked in substandard conditions, and had much of their wages paid directly to the DPRK government.

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

During the year GASI provided safety training to companies and private enterprises. According to GASI the training resulted in a decrease in the number of industrial accidents in sectors such as light industry, food, health, and education, in which accidents frequently occurred in the past.