



**Statement by H.E. Mr. Tsogoo Uugangerel**

**Vice-Minister of Justice of Mongolia**

**At the Twenty Second Session of the Human Rights Council's Working Group on the  
Universal Periodic Review**

**(5 May 2015, Geneva)**

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**Mr President,  
Excellencies,  
Distinguished delegates,  
Ladies and Gentlemen**

On the behalf of the Government of Mongolia, I would like to convey our sincere greetings to the Human Rights Council. It is my great pleasure and honour to introduce the Second National Periodic Report on Human Rights Situation in Mongolia. Our delegation is composed of the representatives from the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Population Development and Social Protection, the State General Prosecutor's Office, National Police Agency and National Committee on Gender.

It is the uniqueness and advantage of the universal periodic review as it gives to all UN member States an opportunity to introduce their human rights situation to other States, share good practices, discuss gaps and challenges, provide feedback on the implementation of recommendations made, and discuss protection and promotion of specific human rights or implementation of a specific treaty. UPR recommendations serve as a soft law to implement, a self-monitoring mirror for the Governments and an instrument for the civil society organizations to demand effective implementation from the Government.

**Mr. President,**

Following the first UPR review Mongolia adopted an action plan for the implementation of the recommendations. The public, private and NGO stakeholders have all contributed their best efforts to the successful implementation of both the plan and recommendations. The outcomes of the efforts were incorporated in the Mid-term voluntary report on implementation of recommendations submitted to the Human Rights Council in May, 2014. The forum that consolidates over 40 human rights NGOs carries out sustainable activities to improve human rights situation in the country, promote human rights and restore violated rights. Seen from our experience the UPR also facilitates the strengthening of mutual understanding and confidence between governmental agencies and human rights NGOs and brings the cooperation to an advanced stage.

In 2012 Mongolia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. In 2014 Mongolia ratified the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as reflected in the recommendations and fulfilling its voluntary pledges as a candidate to 2015 Election of the Human Rights Council.

Since the submission of the national report for the second cycle of the UPR, the State Great Khural (Parliament) of Mongolia has ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Minamata Convention on Mercury in April and May of 2015 respectively. Domestic ratification procedure for the ILO Convention No 176 concerning Safety and Health in Mines and the Kampala amendments to the Rome Statute is expected to be completed in 2015.

Moreover, since the commencement of a comprehensive legal reform in 2012, Mongolia has enacted a number of laws and regulations aimed at ensuring human rights. As part of the process, the Parliament of Mongolia is currently considering drafts of criminal law, including the revised Criminal Code. Yet, the process is rather time consuming as any reform shall enjoy a public support and understanding, be transparent and be a subject of independent monitoring from its start while requiring restructuring and putting an adequate human resource and financial infrastructure in place.

Mr President,

To allow time for questions and comments, allow me to provide answers to the advanced questions put forward by States including Czech Republic, Germany, Norway, Sweden, Slovenia, Switzerland, the United Kingdom, Liechtenstein and Mexico rather than repeating the issues that are already incorporated in the report. Please note that some questions are overlapping.

Mongolia is one of the supporters of the abolition of death penalty. Within a mandate granted by the Constitution of Mongolia, the President of Mongolia declared a moratorium on death penalty on 14 January 2010, which further resulted in the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights by the State Great Khural. The President of Mongolia had granted a pardon to all persons sentenced with death penalty prior to the moratorium, and no single person had been sentenced with death penalty by the courts of Mongolia. The death penalty is excluded from the classification of criminal punishment in the draft of the revised Criminal Code that is currently under the parliamentary consideration.

I am confident that with ratification of the Optional Protocol to the Convention against Torture in 2014, the introduction of concurrent monitoring by the Sub-Committee on Prevention of Torture and National Preventive Mechanism will ensure a tangible progress in preventing torture and holding perpetrators liable. Given the fact that the National Human Rights Commission performs certain functions of a national preventive mechanism as provided for by the relevant laws of Mongolia and its independent status from the Government, Mongolia will

assign the Commission with the functions of the national preventive mechanism in compliance with the Optional Protocol. In this regard, the process of drafting of amendments to the Law on National Human Rights Commission and other relevant laws has been already initiated. We would be keen to learn from the experience and good practices of other countries on the establishment of such national preventive mechanism.

Although according to the Article 251 of the Criminal Code torture is defined as a crime and respective liability sanctions are spelled out, the definition does not include all forms of torture in compliance with the Article 1 of the Convention against Torture. Moreover, as the Article 251 of the Criminal Code is only applicable to the investigator, it results in non-conformity with the Convention. In recognition of this matter, the draft of the revised Criminal Code, which is under the consideration of the Parliament, provides for a definition of torture as well as applicable liability sanctions in accordance with the Convention against Torture.

Disbandment of the Special Investigation Unit of the Prosecutor's Office, which had an investigative jurisdiction over crimes committed by law enforcement officers, and allocation of its functions to Anti-Corruption Authority and Police according to the nature of the crime increasingly becomes a subject of criticism by civil society organizations. Its functions were partially allocated to the Anti-Corruption Authority as required by the amendment in 2014 to the Criminal Procedure Code, which provides that crimes of corruption and abuse of authoritative power by law enforcement officials to be a subject of Anti-Corruption Authority investigation. However, prosecutors, through their supervision on investigation, make decisions on which agency to conduct criminal investigation and on opening and closing of criminal investigation on all crimes including torture.

According to Articles 388 and 389 of the Criminal Procedure Code, victims of torture shall enjoy the right to be compensated for material damage caused by unlawful acts of the investigator, prosecutor and judge, and to claim compensation for moral damage and to restore other violated rights. The State is responsible for compensation and the compensation is paid out of the Government Reserve Fund, specifically designated for such purpose. 137 victims of unlawful actions by the investigator, prosecutor and judge were paid compensation equal 1.0 billion tugrugs from 2008 to 2014. A compensation claim for moral damage of victims is settled through civil procedure, and the compensation amount to be paid to victims is determined by civil courts.

New cluster laws on Judiciary were adopted in 2013 to strengthen the human rights to fair and independent trial. The court administration and court procedures have been separated by the laws and thus, conditions have been created for judges to be free from administration management and its influence. Court rooms of all level courts were equipped with surveillance camera and audio and video facilities and consequently, the court hearings are now recorded. Except for closed court hearings as required by the law, all court decisions are now published on their websites enabling public access and allowing general public, researchers and scholars to analyze and examine the court decisions, the application of laws and the exercise of the rights of the case participants in the court argument. Measures were taken to gradually increase salary of judges.

The Law on Combatting Human Trafficking was enacted in 2012. Furthermore, Mongolia is providing protection and support for victims of this crime by concluding bilateral agreements on cooperation to combat crimes and human trafficking with different countries.

Regulation on providing assistance to citizens who have become victims of human trafficking abroad, providing a temporary shelter and foodstuffs, granting passport or similar document and allocating resources required to bring them back home were approved and became operational in 2013. Four shelters for witnesses and victims of trafficking in persons were newly established in locations where such service is most needed.

Mr President,

The enactment of the Law on Gender Equality, containing multitude provisions on protecting and promoting the rights of women, including prohibition of all forms of discrimination against women in political, economic, social and family relations, and the introduction of quota requirement for women's participation at the decision-making level of the ministries, agencies and local governing organizations, constitute a significant achievement and progress in this regard. Public awareness-raising activities and campaigns were simultaneously organized throughout the country prior to and during the legislative procedure of this Law, which is the outcome of the 20-years of sustained efforts and advocacy by the women's rights NGOs. One example of the positive impacts of the Law on Gender Equality is that since its enactment in 2011 the National Human Rights Commission has received 39 complaints related to sexual harassment in workplaces and transferred the complaints to the law enforcement agencies for investigation. Such increase in public-awareness creates a foundation for more positive changes in workplace relations.

The mid-term implementation program of the above Law was approved. In addition to the establishment of the National Committee on Gender Equality, which is in charge of the implementation of the Law and program, and led by the Prime Minister, there are 49 Gender subcommittees overseeing the implementation of the Law in ministries, agencies and local governing organizations.

It was indicated in the report that with no less than 20 percent quota requirement for women candidacy in the Parliament Election Law, currently we have 11 women parliamentarians in the country. There is an ongoing campaign to introduce into the relevant laws a quota of not less than 30 percent of women candidacy to the Parliament and local government elections. According to the statistics, 38 percent of 1300 business enterprises, that are members of the Mongolian National Chamber of Commerce and Industry, are managed by women CEOs. Yet, further efforts need to be made to increase the share of women in the board of large companies.

Legal and other measures are taken to combat domestic violence in the country. The State Great Khural(Parliament) is currently considering a draft Law on Combating Domestic Violence, which was initiated by the President of Mongolia. Domestic violence is defined as a crime and subject to a criminal punishment in the draft of the revised Criminal Code. A shelter for domestic violence victims affiliated to Police Department was established in Ulaanbaatar city

in 2014, in addition to shelter facilities in 7 provinces established during 2013-2014. Moreover, in 2010, three One-stop Service Centers, which provide medical, physiological and legal services and counseling, were established in Ulaanbaatar City and one in Zavkhan province. A police unit was established to prevent and investigate child abuse and domestic violence and quarterly releases statistics on domestic violence to the public. A progress has been made in 2014 by operating a 107 and 108 hotline for emergency assistance to domestic violence victims. Victims of domestic violence are also entitled for compensation according to the relevant laws.

The revised law on Health and revised law on Prevention of Human Immunodeficiency Virus and Acquired Immunodeficiency syndrome were adopted in 2011 and 2012, respectively. These laws provide new regulations for providing medical aid and services to the population without discrimination on an equal and accessible basis, for banning any restriction of human rights and freedoms due to HIV infection or AIDS and for prohibiting any insult and all forms of discrimination of such persons.

Child labour and corporal punishment are still issues in the country. The National program on elimination of the worst forms of child labour has been implemented since 2011. A provision to prohibit labour for those under age of 15 is included in the draft Labour Code. Apart from operating child emergency hotline 108, it is a common practice that private kindergartens have in-house surveillance cameras. Public schools are implementing a school policing with involvement of parents.

Although we do not have official records or complaints received by the police on discrimination of LBGT people and on alleged mistreatment and dismissal of their complaints by law enforcement and supervisory bodies, it is still necessary to pay greater attention to ensuring the effective implementation of recommendations made by relevant treaty bodies and the National Human Rights Commission on ensuring the rights of LBGT people to education, employment, immunity, health services and other issues pertaining to upholding their human rights.

Mr President,

With a view to improving mining industry safety and health standards up to international standard, the Government has drafted amendments to the Law on Labour Safety and Health and submitted to the Parliament. A Sub-committee was established to address safety and health issues in geology, mining and petroleum sectors, and comprehensive regulations on the safety in open-pit, underground mining, concentrator and explosive activities are being developed. "Safety First" conference is conducted annually to address critical issues of industry and seek for appropriate solution. Newly enacted Minerals Law incorporates cooperatives and partnerships into small and artisanal mining, which resulted in developing guidelines and regulations on safety, environment protection, rehabilitation, technical and technological methods for small-scale mining activities.

There have been cases of illegal and unsafe use of mercury in mining. Inspection for illegal use of chemicals has been conducted nationwide and mercury pollution inspection were carried out in 37 soums of 9 aimags. A national standard on "Mercury poisoning diagnosis and

treatment" has been introduced in 2014. However, there is still a need to bring medical services closer to the sites of small and artisanal mining.

It is important to ensure a proper balance between the development of agriculture and mining sectors - the core pillars of Mongolian economy. As it is stipulated in the Minerals Law, a holder of special license shall be responsible for compensating an owner or possessor of wells, winter quarters, private and public premises and items of cultural and historical heritage damaged by the mining activities, and, if necessary, to bear a cost of resettling. As of today, compensation has been paid to 112 out of 595 households which lost their lands and winter quarters due to mining activities. The Government attaches a high priority to the issue and established inter-sectorial working group to develop a proposal on improving a system of compensation and protecting the rights of herders who are at risk of losing their pasture land or winter quarters due to exploration and mining activities. However, the Government has a limited possibility to intervene directly for instance, in the assessment of the monetary value of the privately-owned winter quarters.

Relevant amendments were incorporated into the Law on Minerals and the Law on Petroleum in 2010 to introduce a system of registration of artisanal miners, enable them to acquire source of livelihood and ensure their safety and human rights. Activities of small-scale and artisanal miners are regulated by the Government Resolution.

Water supply is becoming an issue of increasing concern in conjunction with mining industry development. Measures are being taken especially with regards to the efficient use of water resources, protection, conservation of drinking water supply for local community, water safety and security. A specific law was enacted to prohibit mining activities within a boundary of 200 meters from river catchment and establishing a hygiene zone within 100 meters. 650 water springs were taken under protection as per the National Program on Water approved by Parliament in 2010. Certain portion of royalty payments paid to local budgets are used for environment protection and rehabilitation purposes. Air pollution is a critical issue for Ulaanbaatar city where 40 per cent of the entire population resides. The Clean Air Fund, a type of the Government Reserve Fund, made an investment of 88,82 billion tugruqs, an equivalent of 45 million USD to reduce air pollution.

Mr President,

The Constitution of Mongolia serves as a legal guarantee to protect private ownership rights and provides restrictions on illegal seizure and expropriation of private property. This constitutional protection as well as the regulations in the Land Law of Mongolia make it illegal to force citizens to move from their privately-owned land and expropriate the land. Gher-district redevelopment project, launched to reduce air pollution in the capital city and to ensure rights of citizens to safe and healthy living environment, is under implementation in 24 locations since 2013, covering 15 per cent of the total territory of the city. Full participation and engagement of land owners or possessors residing in these locations were guaranteed during redevelopment and land acquisition of this project. Project companies could only acquire the lands based upon an execution of a tripartite contract between the land owner, the project companies and the Mayor of the City. Without express consent and permission from the residents, no land

acquisition and forced eviction occur. Residents are given options to have a land in different locations or to obtain mutually agreed compensation or to exchange the land for apartments.

According to the Constitution of Mongolia, international treaties ratified or acceded by Mongolia shall have a force equal to domestic laws. For that reason, out of 425 laws in effect, 159 laws contain general provisions giving legal prevalence to international treaties over domestic laws when there is difference. Given the shortcomings in the monist methodology and current practices, there is an obvious necessity to introduce legal and principal changes into the national legislation to bring it into conformity with international treaties. A draft law on International Treaty, that is currently being developed by the Ministry of Foreign Affairs, includes mandatory requirements to integrate treaty provisions and obligations into existing domestic laws or adopt a new law when implementation of treaty to be ratified or acceded requires such action and prohibits submission of laws of ratification or accession of treaties which are not accompanied with necessary drafts of amendments into existing laws or of new laws. Within the framework of the legal reform, since 2012 a great number of amendments to the existing laws are in process of being drafted. The work on bringing domestic laws into conformity with relevant international treaties is underway.

Mr President,

Although Mongolia has made a substantial progress in acceding to international treaties, improving domestic legislation framework with a view to protect and promote human rights, further efforts and work are needed to be done to make domestic legislation compatible with international treaties, improve the implementation of laws, and strengthen necessary human and financial resources in that regard. We are keen to continue cooperating in this regard with the relevant UN organizations and receive necessary technical assistance.

Given the importance of continuous cooperation and constructive engagement with all UN mechanisms for the promotion and protection of human rights, Mongolia has been actively working to make its contribution to the activities of the Human Rights Council. Mongolia is a co-sponsor for over 20 resolutions and decisions adopted by UN General Assembly and Human Rights Council.

Mongolia is willing to share its experience on building a humane, democratic society, ensuring of human rights and become an active participant in the international cooperation urged by the importance of the matters tabled before the Council. Therefore, Mongolia has presented its candidature to the United Nations Human Rights Council for the term 2016-2018.

My delegation genuinely hopes that Mongolia will enjoy full support of UN Member States for our candidacy to the Human Rights Council at the 2015 elections in New York.

In conclusion, let me thank to Member and Observer States of the Human Rights Council, Troika States and the OHCHR for their active participation and constructive dialogue in reviewing our second national report. Your recommendations, comments, questions would be valuable contribution to our endeavour in promoting and protecting human rights.

Thank you.