

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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SUMMARY RECORD OF THE 197TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 March 1980, at 10.30 a.m.

Chairman:

Mr. MAVROMATIS

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The meeting was called to order at 10.50 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4).

Report of the Mongolian People's Republic (CCPR/C/1/Add.38)

1. The CHAIRMAN invited the representative of the Mongolian People's Republic to submit the report of the Mongolian Government.
2. Mr. SOVD (Mongolia) said that the report of his Government (CCPR/C/1/Add.38) on the application of the provisions of the International Covenant on Civil and Political Rights described the way in which the rights and freedoms of persons were guaranteed in Mongolia. The Government of the Mongolian People's Republic attached great importance to the Covenant and to its contribution to the protection of human rights. It considered the Covenant a most important legal instrument, whose aims and provisions it respected in conformity with its own socialist structure.
3. The 1921 revolution, which had put an end to a long struggle against oppression, had enabled power to be transferred to the Mongolian people, who exercised it through representative organs, and had established a legal basis for the protection of civil and political rights in the country. Before the revolution Mongolia had been a feudal country where even elementary rules for the protection of human rights were lacking and where torture was common practice. Thanks to the steps taken by the Government, however, the workers now possessed political and economic rights and there was no longer any inequality or exploitation. Moreover, before 1921 the economy had been stagnant and had consisted mainly of stockbreeding; wealth had been concentrated in the hands of a few leaders of industry, representing 7.8 per cent of the population, and had been dominated by foreign interests. Education had not been guaranteed and there had been no health services. Mongolia, which was preparing to celebrate the sixtieth anniversary of the People's Revolution, could assert that a decisive page had been turned and that it had passed from a feudal society to a socialist society. Towards the end of the 1950s, there had been a most important change in social relationships and the people were at present occupied in building socialism and industrializing their country. Industry now accounted for about 40 per cent of the gross national product. There was no unemployment and everybody had the right to work and to free medical care. School education was being developed and one child in four continued his schooling to secondary level. It should be borne in mind that, although Mongolia occupied an enormous area in Asia, it had a population of only about 1.6 million.
4. The basic law of the Mongolian People's Republic was the 1960 Constitution. In 1973, legislative provisions concerning human rights had been adopted. The ratification by the Mongolian People's Republic on 18 November 1974 of the International Covenant on Civil and Political Rights had not required any important amendments or additions to the laws already in force in the country, a fact that showed that the civil and political rights recognized in the Covenant were nothing new. Those rights were enshrined in the Mongolian Constitution and in

other laws such as the 1964 law on nationality, the 1976 law on the powers of the Public Prosecutor, the 1978 law on the judicial system, the 1978 law on the organization of the Bar and the 1979 law on retirement. Some amendments had also been made to the Penal Code after the Covenant had been ratified. Furthermore, efforts were constantly being made to improve the legal basis of the central and local bodies and, in particular, to strengthen, in the laws on education, labour and so forth, the political, economic and legal guarantees of human rights and of the socialist democracy.

5. The preamble to the 1960 Constitution set out that Mongolia pursued a foreign policy aimed at ensuring durable peace, friendship and co-operation between all peoples on the basis of the principles of proletarian internationalism. Mongolia favoured general disarmament and world peace. All war propaganda was forbidden and children were taught to respect other peoples and the freedom of others.

6. Provisions laid down in the area of health guaranteed the right to life of all individuals. In the preamble to the law on the subject, it was laid down that measures for the protection of health formed one of the most important social victories, which had made it possible to lower mortality rates, to fight against infectious diseases and to prolong life. Article 3 of that law laid down that health centres should provide free services by qualified personnel. Life expectancy, which had not exceeded an average of 25 years before the 1921 revolution, had now reached approximately 67 years. The population was growing by 3 per cent a year and there were 22 doctors and 105 hospital beds for every 10,000 persons.

7. Before the revolution, women had had no civil or political rights and had in fact been slaves. As soon as the people had acquired power, steps had been taken to correct that situation by educating women and giving them a share in the life of the country. The Constitution of the Mongolian People's Republic laid down that women were accorded the same rights as men in all spheres of political, economic, social and cultural life and that any infringement of those rights was forbidden. Women were no longer illiterate and more and more of them were going on to secondary or university studies. Women accounted for 42.9 per cent of persons who had completed secondary or higher education, 24 per cent of scientific workers, 58.4 per cent of teachers, 60 per cent of doctors and 53.1 per cent of workers in culture and art. At the political level, 23 per cent of the members of the Great National Hural (Parliament), 29 per cent of the members of local Hurals and 20 per cent of magistrates were women.

8. In addition, article IX of the Labour Code laid down a number of criteria concerning the equality of working conditions for women as compared with those for men, allowance being made for their physical characteristics. The equality of men and women was also guaranteed by the Family Code. Special provisions were made for the benefit of mothers of large families, who received material assistance and special leave. In maternity cases, working women had a right to 45 days' leave before delivery and 56 days after. If a woman had twins or triplets or if there were complications after the birth, the leave could be extended to as much as 70 days. Since 1977, mothers who wished to look after their children up to the

age of six months had been given additional leave and received a family allowance. According to the Penal Code, compelling a woman to have an abortion, illegal abortion, rape, forced marriage and opposition to a woman's marriage were all regarded as offences, as was preventing a woman from studying or working. The same applied to all political and cultural activities. It was also forbidden to refuse to employ a woman who was pregnant or nursing or to dismiss her or reduce her wages. Lastly, the Penal Code prohibited the death sentence for women, whatever crime they were guilty of.

9. Before the revolution, persons arrested or detained had been subjected to cruel treatment, torture and so on. Today, according to article 21 of the 1964 Code of Criminal Procedure, the Procurator was obliged to observe the measures laid down by law for giving the case of each accused person a fair examination and for bringing him to trial. It was forbidden to threaten the accused person or to inflict torture upon him. According to article 149 of the Penal Code, criminal proceedings could be taken against anyone who threatened witnesses. Furthermore, the Constitution laid down that no one could be arrested except by decree of a court or of the procurator. The procurator could release any person improperly arrested or detained for longer than the period laid down by law. The privacy of the home and the privacy of correspondence were also guaranteed except in certain cases laid down by law. Regulations guaranteeing the protection of the rights of the accused during interrogation and detention in custody were in conformity with the criteria laid down in the Covenant. According to the Code of Criminal Procedure of the Mongolian People's Republic, the accused must be told the charge against him, could offer explanations, produce evidence, be defended, be present at the hearing, ask for a postponement of the case and start proceedings against persons who had accused him unjustly. The period of remand in custody could not exceed two months, except in certain cases in which, by decision of the procurator, it could be extended to a maximum of nine months. The maximum period of detention of an accused person, laid down at 24 hours, could be extended to a maximum of three days on the order of the procurator or the court. The Code of Criminal Procedure and the legislation relating to civil and political rights laid down that only the courts were authorized to dispense justice, that they were independent and that citizens were equal before the law. In addition, the accused could defend himself in whatever language he wished. Article 3 of the Penal Code provided that the sentence passed on the accused must be in conformity with the law. Extenuating circumstances with retroactive effect were recognized.

10. Juvenile delinquents were covered by special regulations: the accused person's lawyer must be present at all stages of the judicial procedure, the period of remand in custody was limited, those who had been sentenced were detained in separate quarters and special measures of rehabilitation were provided.

11. He was ready to answer any questions by members of the Committee concerning the way in which his country applied the provisions of the International Covenant on Civil and Political Rights.

12. The CHAIRMAN thanked the Mongolian representative for his Government's report and for the additional information he had provided.

13. Sir Vincent EVANS said that he had studied the Mongolian Government's report with great interest. He thanked the Mongolian representative for having explained a number of points relating directly to the implementation of the Covenant, and in particular for the impressive account he had given of the advances made in his country during the past 50 years in the promotion and exercise of human rights. He thought it would be useful to have the Mongolian representative's statement circulated by the Secretariat to the members of the Committee. He would like to raise a few general questions about the way in which effect was given to the International Covenant on Civil and Political Rights in Mongolia and on the constitutional and legal framework within which it was implemented.

14. First and foremost, the Covenant was essentially concerned with the individual's rights and freedoms in his relations with the State. In the preamble, the States Parties recognized that those rights derived from the inherent dignity of the human person but also that the individual had duties to others and to the community to which he belonged and was under a responsibility to strive for the promotion and observance of the rights recognized in the Covenant. In order that the individual might promote his own rights and those of others, it was important that he should know what those rights were. He accordingly asked the Mongolian representative what publicity the Covenant had been given in Mongolia. In particular, he would like to know whether the Covenant had been published in the Official Gazette, whether it had been publicized in the press or other information media, whether it had been translated into Mongolian and whether copies of it were available in libraries or elsewhere in languages which the inhabitants of Mongolia could understand, so that any person who wished to study it could do so.

15. Turning to the Mongolian Constitution, he noted that under article 34 (p) one of the functions of the Presidium of the Great National Hural of the Mongolian People's Republic was to ratify and denounce treaties concluded with other States. He therefore presumed that the Covenant had been ratified on the authority of the Presidium, but he would like to know what its present legal status was within Mongolia's legal and administrative system. For example, if an individual considered that a law infringed one of his rights or freedoms or that some decision or practice of the administrative authorities, at any level, was inconsistent with his rights under the Covenant, could he invoke the Covenant's provisions before the courts or in his dealings with the administrative authorities or in any other way and, if so, to what extent would that be taken into account in the relevant decision? That was a very important point for, as he saw it, the Covenant established international standards with regard to personal rights and freedoms and those standards had been accepted by every State which had ratified it, thus conferring on it a legal status superior to that of domestic law. No doubt each right recognized under the Covenant had its counterpart in Mongolian law or practice, even if it was defined differently, but he wondered whether the restrictions which might be imposed on the exercise of a right under domestic law or administrative practice were always compatible with those permitted by the Covenant. If they were not, he would like to know what recourse was available to the individual whose rights had been infringed, to whom he could appeal, whether he had access to a court or to the local Hural, or whether there were people's control bodies on the lines of those set up under the Constitution of the Soviet Union.

16. Referring to the preponderant role played by the Mongolian People's Revolutionary Party in the Mongolian Constitution, he asked what was the procedure for joining that party, whether any citizen could join it and how many members it had. In particular, he would like to know what the party's role was in relation to other State bodies such as the Council of Ministers, the local Hural and the Courts, how its activity and influence were exercised, the extent to which it controlled the decisions taken by other bodies and whether its members enjoyed any privileged position inconsistent with the undertaking given by States Parties in article 2, paragraph 1, of the Covenant to ensure the rights recognized in the Covenant without distinction of any kind, such as political opinion.

17. With regard to the right to life, he pointed out that article 6 of the Covenant imposed certain restrictions on the application of the death penalty. In particular, it stated that, in countries where the death penalty had not been abolished, sentence of death could be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime. According to the report submitted by Mongolia, the death penalty could be imposed for a fairly wide range of crimes. He asked whether that penalty was in fact often imposed. Since article 6 of the Covenant clearly looked towards abolition of the death penalty, and since a number of countries had already ceased to impose that penalty on humanitarian grounds, he asked whether any consideration was being given to its abolition in Mongolia and whether it could not be the first country in that region of the world to abolish capital punishment.

18. Article 7 and article 10, paragraph 1, of the Covenant dealt with the prohibition of torture and with the right of persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. He noted that Mongolian legislation prohibited the use of torture or cruel, inhuman or degrading treatment or punishment and that the Mongolian representative had said that torture had been abolished since the Socialist Revolution. There must be occasions, however, when citizens complained of having been subjected to ill-treatment or harassment by the police or other authorities. He asked what safeguards were provided for such instances and whether there was any procedure for investigating such complaints. He would also like to know who was responsible for the supervision of penal establishments, whether provision was made to ensure that detainees were treated humanely and whether persons independent of the prison staff could visit prisons, inspect them and hear any complaints made by inmates.

19. With regard to the right to liberty and security of the person and the prohibition of arbitrary arrest or detention, he said that one or two points had not been covered in the report submitted by Mongolia. For example, article 9, paragraph 2, of the Covenant stated that anyone who was arrested should be informed, at the time of arrest, of the reasons for his arrest and should be promptly informed of any charges against him; he wondered whether there was a similar requirement in Mongolian law. He would also like to know whether, under that law, anyone who was deprived of his liberty by arrest or detention could apply to a court to have the lawfulness of his detention determined and his release ordered if the detention was

not lawful, in accordance with article 9, paragraph 4, of the Covenant, and whether anyone who was the victim of unlawful arrest or detention had a right to compensation (article 9, paragraph 5). Lastly, he asked whether it was possible, in Mongolia, for the authorities to detain persons without trial on account of their political beliefs, as was the case in some countries.

20. Article 19 of the Covenant set forth the right of everyone to hold opinions without interference (paragraph 1) and the complementary right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers (paragraph 2). Those inherent human rights were among the most important in a democratic society and therefore, according to the provisions of article 19, paragraph 3, could be subject only to certain restrictions necessary for respect for the rights or reputations of others or for the protection of national security or of public order, or of public health or morals. He asked the Mongolian representative what restrictions could be imposed, in his country, on the exercise of those rights and freedoms.

21. With regard to freedom of speech, freedom of the press, freedom of assembly, including mass meetings, and freedom to hold demonstrations, he thought that article 87 of the Mongolian Constitution, according to which the law guaranteed those freedoms to citizens of the Republic "in conformity with the interests of the working people and in order to strengthen the socialist State system of the Mongolian People's Republic", could be interpreted and applied very restrictively in order to justify the imposition of serious limits to the exercise of those freedoms, particularly in the political field. He would therefore like to know the extent to which a Mongolian citizen was free to canvass his opinions or ideas and to criticize the régime, and whether the Government exercised strict control over the dissemination of information through newspapers, periodicals, books, radio and television. He asked the Mongolian representative whether he did not think that greater freedom to exchange information and news would be in the interests of the individual, the society and the State.

22. With regard to protection of the family and children, dealt with in articles 23 and 24 of the Covenant, he thought that the Mongolian Government had acted humanely in deciding to grant an amnesty to delinquent minors on the occasion of the International Year of the Child. He noted that in Mongolia, as in many other countries, women were encouraged to take employment outside the home. That was in accordance with the modern trend but in his view it could give rise to problems for mothers of very young children. The Mongolian representative had mentioned that women received special benefits during their pregnancy and until their children were six months old, but he had not made it clear whether there was any provision in Mongolian legislation to enable such assistance to be prolonged until the children were old enough to attend school. He would like to know whether there were day nurseries where mothers could leave their children while they were at work and whether, in general, the legal provisions in force ensured adequate protection for the family and children.

23. Mr. PRADO VALLEJO said that the attendance of its representatives showed that Mongolia was genuinely interested in the promotion of human rights and sincerely wished to fulfil its obligations under the International Covenant on Civil and Political Rights. He considered that the further information provided by the representative of Mongolia in his statement showed that the country's efforts to develop and consolidate its institutions had been successful. When a people succeeded in attaining its self-imposed objectives, it earned the respect of others and was to be congratulated.

24. He noted with satisfaction that the report of Mongolia followed the guidelines laid down by the Committee for the presentation of reports, but he nevertheless felt that its brevity left some points to be elucidated. The report gave a general picture of the human rights situation in Mongolia but an exchange of views was needed to obtain further details. In those circumstances a most fruitful dialogue had developed between the Committee and the representatives of various countries which made it possible to appreciate not only the efforts those countries had made to promote human rights but also the difficulties they inevitably encountered in fully implementing the Covenant. It was obvious that the Covenant on Civil and Political Rights could not be applied rigidly; it was essential for its implementation to be related to each individual country's situation and circumstances in order to appreciate the progress achieved in the protection of human rights.

25. The effective enjoyment of human rights could only be assured where a certain minimum of conditions was fulfilled. It would be interesting to hear, in particular, whether the provisions of the Covenant had been embodied in Mongolian law, and if so in what form. He wondered whether, for instance, a Mongolian citizen could invoke the Covenant before a court if he was the victim of an arbitrary act by some authority. He would like to hear from the representative of Mongolia how the independence and status of judges and courts, which were the necessary conditions for them freely and fairly to apply the standards and principles laid down in the Covenant, were guaranteed. Another matter on which he would like particulars was the appeals procedures available to a citizen if any of his rights were violated by an authority: what was the nature of such recourse and did it genuinely provide the citizen with the necessary legal means to defend his rights?

26. Examining the report in detail, he asked whether, in connexion with article 6 of the Covenant, Mongolia contemplated gradually abolishing the death penalty or reducing the number of crimes for which the courts could impose it. He would like to have details on the meaning of the expression "acts against society", which was extremely vague. Concerning article 9 of the Covenant, which proclaimed the right to liberty and security of person, he would like to know the extent of the Procurator's authority, under article 88 of the Constitution of the Mongolian People's Republic, referred to in the report, to order the arrest of any citizen. That seemed to infringe the principle of inviolability of the person referred to under the same article. He would also like to know in what cases a person might be detained for more than 24 hours as stated in its report, and even, as stated by the representative of Mongolia, for as long as nine months, and how the accused person's right to security was guaranteed during that period. With regard to article 12 of the Covenant, he pointed out that the report of Mongolia did not refer to the right to liberty of movement referred to in that article.

He wondered, therefore, whether that right was subject to restrictions in Mongolia. Nor did the report refer to article 13 of the Covenant, on the rights of aliens. It would be helpful if the representative of Mongolia could provide details on the legal situation and rights of aliens within Mongolian territory. With respect to article 14 of the Covenant, he was disturbed to note that in Mongolia court hearings were not always public and that hearings in camera might be ordered to protect State secrets. The concept of "State secrets" was extremely vague and he would like the delegation of Mongolia to explain what it covered and who decided whether any particular affair amounted to or involved a State secret. He would also like to know why the report had nothing to say on paragraphs (a), (b), (c) and (d) of article 14. With regard to article 18, there was no reference anywhere in the report to the right to freedom of thought. It would be helpful, therefore, to know what provisions of Mongolian law guaranteed that fundamental individual right and what recourse citizens had if they felt that their right to freedom of thought had been violated. The paragraph in the report referring to articles 19 and 21 of the Covenant needed to be supplemented: there was no reference in it to the right of freedom of expression proclaimed in article 19 of the Covenant. He would like to have some information on the provisions of Mongolian law which guaranteed that right, the more so in view of the obligation laid on every Mongolian citizen under article 89 of the Constitution "to devote all his efforts and knowledge to the building of socialism" and to "struggle actively against all anti-social manifestations" - which was to some extent likely to restrict the right to freedom of expression and perhaps even the right to freedom of opinion. He noted with satisfaction, in connexion with article 20 of the Covenant, that war propaganda was prohibited under Mongolian law, but he would like to have details on the subject of the second of the two paragraphs in the report dealing with article 20, in which it was stated that "the propagation of ideas of chauvinism and nationalism are prohibited by law". In view of the extremely vague character of those two ideas, he was afraid that the prohibition of chauvinistic or nationalistic propaganda might give rise to abuse and might in the end result in curtailing the right to freedom of expression. He hoped therefore that the representative of Mongolia would be good enough to say whether the two concepts were specifically defined and to inform him who, in his country, had the authority to decide whether or not any particular remark or act amounted to propagation of ideas of chauvinism and nationalism.

27. Mr. HANGA thanked Mongolia for its report. He would like to see some questions regarding articles of the country's Constitution which had a direct bearing on the implementation of the International Covenant on Civil and Political Rights. While it was stated in article 9 of the Constitution that there were two forms of Socialist property, i.e., State property and co-operative property, it was stated in article 13 that the right to personal property was recognized for Mongolian citizens. In view of the close link between economic and social rights and civil and political rights, it would be interesting to know how far recognition of the right to personal property contributed to the exercise of civil and political rights in Mongolia. It would also be helpful to know what economic, legal and political limits were placed on the right to personal property, concerning which it was stated at the end of article 13 that it must not be used to the detriment of State and public interests.

28. Article 19 of the Constitution stipulated that the right to initiate legislation was vested in duly constituted bodies. Since Mongolia was a people's democracy, he would like to know whether the people too had the opportunity to participate in the law-making procedure or even to propose laws, through the trade unions or social organizations for instance. Regarding article 72, which listed the functions of the Procurator of the Republic, it would be useful to know whether it was the Procurator of the Republic who was responsible for supervising the implementation of civil and political rights and, if so, whether he acted on his own initiative or only upon the request of a citizen.

29. In general, he would like the representative of Mongolia to explain to him whether the provisions of the Covenant had been embodied in his country's law, or whether, at least, the provisions of that law were actually in conformity with those of the Covenant.

30. With regard to the report submitted by Mongolia, and more particularly the paragraphs in it referring to article 2 of the Covenant, he would like to have details of the legal and administrative recourse procedures available to Mongolian citizens who thought that they had been victims of violations of rights and freedoms recognized in the Covenant. With respect to article 6 of the Covenant, it would be helpful if the representative of Mongolia would let the Committee know what measures had been taken by his Government to enable the whole of the population, which was increasing rapidly, to enjoy the best possible state of health. With regard to article 7, he would like to have information on the educational role of penalties and on the measures adopted by the Government to make the law known to the people and thus to induce them to abide by the laws in force. He would also like to know whether, in accordance with article 9 of the Covenant, Mongolian law provided for the right of any individual subjected to arbitrary arrest or detention to claim compensation and, in that event, what form such compensation took and what limits were placed on it. Since in accordance with article 10 of the Covenant the penitentiary system should comprise treatment of prisoners the essential aim of which should be their reformation and social rehabilitation, he would like to know to what extent the treatment of prisoners in Mongolia was designed to contribute to their reformation and social rehabilitation. The representative of Mongolia might also provide some information on the subject of article 11, which was not mentioned in the report. In connexion with article 12, he would like to know whether tourist traffic had developed in Mongolia and, if so, what results it had had from the cultural, economic and scientific point of view. He wondered, in respect to article 14, whether there were administrative procedures and specialist tribunals for labour conflicts. With regard to article 15 of the Covenant, he would like to have further information on the principle of non-retroactive application of laws and on exceptions to that principle. In connexion with article 22, he pointed out that trade unions generally played a very important role in people's democracies and he asked the representative of Mongolia to be good enough to provide information on the economic and political role of trade unions in his country. Lastly, concerning article 24, he would be interested to know the legal position of illegitimate children in Mongolia, and whether any legal, economic or social distinctions were made between illegitimate and legitimate children.

31. The CHAIRMAN announced that Nicaragua had acceded to the International Covenant on Civil and Political Rights on 12 March, bringing the number of States Parties to the Covenant to 62.

32. Mr. BAYART (Mongolia) said that, before replying to some of the questions, he would have to request members of the Committee who had asked them for some clarification.

The meeting rose at 1 p.m.