

**INTERNATIONAL
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ON CIVIL AND
POLITICAL RIGHTS**



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held at the Palais des Nations, Geneva,
on Friday, 21 March 1980, at 3 p.m.

Chairman: Sir Vincent EVANS

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The meeting was called to order at 3.15 p.m.

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

Mongolia (CCPR/C/1/Add.38) (continued)

1. At the invitation of the Chairman, Mr. SOVD (Mongolia) and Mr. BAYART (Mongolia) took places at the Committee table.

2. Mr. SOVD (Mongolia) said that he would first answer the questions which had been asked about the means of protecting human rights and the system for submitting complaints. Mongolian legislation ensured the equality of citizens before the law, in accordance with article 2 of the Covenant. There were no laws which restricted the equality of citizens in economic, political, social or cultural life. Article 5 of the Constitution stated that "the State bodies were duty bound to draw support from the working masses and constantly to strengthen their ties with them". The means for the protection of civil and political rights found full expression in all Mongolian laws. Any citizen who considered that his rights had been infringed or violated was fully entitled to submit a complaint to any State body, in particular the judicial, prosecuting, arbitral and other State bodies and authorities, and to public organizations. The Presidium of the Great National Hural and the Council of Ministers had enacted decrees on the subject in accordance with which an official was obliged to provide a specific answer within a time limit of one week to any person who submitted a complaint or statement regarding a decision which that official had taken. If the complaint or statement were such as to require careful verification, the answer had to be given within a time limit of one month.

3. The public prosecutor supervised compliance with and implementation of the laws of the Mongolian People's Republic in the field of the legal protection of citizens. Thus, if an official did not fulfil the obligation to provide a reply to a petitioner within the time limit laid down by law, the petitioner could make a complaint about the official to the public prosecutor or to the courts. The criminal-procedural and civil-procedural codes of the Mongolian People's Republic provided for the right of each individual involved in a court hearing to appeal against the court's decision to a higher court, namely to the Court of Cassation, within a period of not more than 10 days from the date of the court's decision. Moreover, any person had the right to submit a statement to a higher court or to the public prosecutor.

4. In connexion with article 4 of the Covenant, questions had been asked about the system for introducing a state of emergency. The Presidium of the Great National Hural had exclusive competence for declaring a state of emergency, within the framework of the existing rules. It had never been necessary to declare a state of emergency in the history of the Mongolian People's Republic.

5. It had been asked why Mongolia's report made no reference to article 5 of the Covenant. Mongolia had no laws, regulations or customs which could be used as a pretext for any restriction upon or derogation from human rights which were not recognized, or were recognized to a lesser extent, in the Covenant.

6. In connexion with article 6 of the Covenant, under Mongolian criminal law the death penalty was an exceptional measure. The People's Government had abolished the death penalty in 1924 but had unfortunately been obliged to restore it; it had again been abolished in 1951, and in 1953 it had been restored, at the request of the people, and since then had remained in force. Although the Criminal Code provided for the possibility of the imposition of the death penalty for a number of particularly heinous crimes, it was rarely used in practice. Over the last 10 years, with the exception of premeditated murder with aggravating circumstances and the large-scale misappropriation of socialist property, there had been no cases of the imposition of the death penalty. Moreover, the death penalty had been ordered by a court only once for the misappropriation of socialist property and the accused had been pardoned by the Presidium of the Great National Hural. The number of death penalties imposed amounted to an average of three a year. The exemption of women from the death penalty did indeed exist and was fully respected. The provision did not entail any kind of discrimination on the grounds of sex; it existed because, in the first place, women were above all mothers and required particularly humane treatment and, secondly, because it was considered that the exemption of women from the death penalty was a significant step towards its complete abolition. Under Mongolian legislation the death penalty was a temporary measure. The relevant article of the Criminal Code of the Mongolian People's Republic provided that the imposition of the death penalty for the most heinous crimes was not obligatory for the courts, nor was it the only means of punishment; in all cases provision was made for alternative means of punishment. Recently, a draft law to repeal the death penalty for theft and robbery had been submitted for consideration by the Presidium of the Great National Hural.

7. On the question of the meaning of the term "sabotage", in Mongolian law sabotage was regarded as the destruction or damage, by means of explosive devices, arson or other methods, of enterprises, installations, road and transport links, means of communication, or other State or public property, mass poisoning and the spreading of epidemics and epizootics with a view to weakening the country. The term "most serious circumstances" was used in the law for each of those cases. For example, article 70 of the Criminal Code used the term for premeditated murder for selfish motives or because of hooliganism carried out repeatedly or by a person who had previously been sentenced for heinous bodily harm or robbery. The term applied also to the simultaneous murder of two or more people or of women known by the accused to be pregnant, to murder carried out by methods which endangered the lives of the public, to exceptionally cruel murder and to murder which was designed to conceal another crime or facilitate its commission.

8. In relation to article 7 of the Covenant, Law No. 48 of the People's Government of 4 December 1922 had abolished the use of torture and that law was still in force. No cases had been recorded of the submission of complaints by citizens of rough or cruel treatment or the use of torture against them by individuals carrying out inquiries, preliminary investigations or court hearings. It was the prosecuting bodies which were responsible for ensuring legality in places of detention. The Public Prosecutor had to visit those places regularly and to investigate the work of their administrations directly, and he was empowered, if he found any violation of the laws in the treatment of accused persons, to initiate criminal proceedings against the individuals responsible or take steps to subject them to disciplinary action. Moreover, a supervisory commission consisting of representatives of public organizations was attached to the Executive Board of the local organ of power, and the members of that body had the right to visit places of detention without any restriction and to meet and talk to the prisoners. The administration of such places had to transmit to the Public Prosecutor within 24 hours any complaints or statements addressed to him by a prisoner. The Public Prosecutor had to consider them within the time limit established by law and inform the complainant of his decision. The Public Prosecutor had to ensure that complaints or statements made by prisoners were transmitted without hindrance by the administration of the place of detention to the bodies or officials to which they were addressed.

9. In connexion with article 8 of the Covenant, questions had been asked about slavery and the slave trade in Mongolia. Mongolia regarded the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery as an important international instrument in the respect for and guarantee of human rights and had therefore ratified it as early as 1956. Slavery as such had never existed in the history of Mongolia.

10. With regard to the implementation of article 9 of the Covenant, article 144 of the Criminal Code defined the nature of crimes involving illegal arrest. The article provided that arrest carried out by an investigator or member of a body of inquiry without a decision of a court or of the public prosecutor was punishable by deprivation of liberty for up to two years. Moreover, knowingly unjustified arrest carried out for mercenary or other personal motives was punishable by the deprivation of liberty for a period of between three and seven years. Under article 50, paragraph 2, of the Criminal Code, an official was obliged to inform an arrested person immediately of the reason for the arrest. The law categorically prohibited the prosecution or arrest of an individual on the grounds of political belief which

did not involve any socially dangerous activity. In the event of unjustified or illegal arrest, any material damage had to be fully compensated. Compensation for moral prejudice was ensured by means of a public proclamation through the information media to the effect that the person who had been arrested was innocent. Thus illegal arrest was inadmissible. In connexion with the question of the inviolability of the person, the reference to the 24-hour period in the report applied only to the time of detention. The period of nine months to which he had referred in his introductory statement applied to punishment in the form of imprisonment.

11. In connexion with article 10 of the Covenant, a question had been asked about Mongolian corrective-labour law. In Mongolia there were three types of corrective-labour colonies; general, strict and special colonies. In prisons there were general and special colonies. Women served terms of deprivation of liberty separately from men, but under the same general conditions, and juvenile offenders served their terms separately from adults, in labour-educational colonies.

12. With regard to article 11 of the Covenant, no one could be imprisoned on the ground of inability to fulfil a contractual obligation. In the event of failure to fulfil such an obligation, the individual concerned was answerable only to the civil courts.

13. In connexion with the questions regarding the right of entry to and departure from the Mongolian People's Republic, in relation to article 12 of the Covenant, the Government of the Mongolian People's Republic considered that the unrestricted entry to and departure from the country and the development of tourism were among the most important means of expanding and strengthening friendly ties and co-operation among the peoples and were an inseparable part of respect for human rights. Particularly in recent years, tourism in Mongolia had been developing successfully and every year there were tens of thousands of visitors from many different countries of the world. Citizens of the Mongolian People's Republic had the full right to travel abroad and the State Bank provided them with the necessary foreign currency in exchange for national currency. Within the country there were no restrictions on freedom of movement or choice of residence. Because of the rapid development of urbanization, however, there was a system establishing certain guidelines for the rational distribution of the population in large towns. In accordance with the law on citizenship, the question of depriving an individual of citizenship fell within the exclusive competence of the Presidium of the Great National Hural. An individual who wished to renounce Mongolian citizenship had to have permission from the competent body because the question was linked with ensuring State security and with the interests of the individual himself.

14. In connexion with article 13 of the Covenant, the legal status of foreigners residing permanently on the territory of the Mongolian People's Republic was regulated by a decree of the Council of Ministers, while that of persons living temporarily on the territory was regulated on the basis of the relevant treaties. The general civil rights of foreigners permanently residing in Mongolia were no different from the rights afforded to citizens of the Mongolian People's Republic and they were not subject to any kind of discrimination. At the same time, they were not entitled to rights such as the right to participate in elections for State bodies and the right to be judges; they were also exempt from military obligations.

15. On the question of the implementation of article 14 of the Covenant, before investigating a particular case the court established whether or not it involved State secrets. If it decided that it did, the court hearing or trial was carried out in camera. The criminal-procedural code of the Mongolian People's Republic fully guaranteed the implementation of article 14, paragraph 3, of the Covenant; the investigating body was obliged to provide an interpreter to the accused if he did not speak the Mongolian language, and the defendant appeared in court free of charge from the time the accusation was made. Under article 14 of the Criminal Code, no one could be considered guilty of committing a crime and subjected to criminal punishment other than by a court verdict. The accused had the right to know what he was being accused of, to provide explanations about the accusation made, to submit proof, to make petitions, to acquaint himself at the end of the preliminary investigation with all the documents of the case, to participate in the court hearing, to make objections, to make complaints about the persons carrying out the inquiry and to request the personal appearance of witnesses. Any dispute concerned with labour relations was investigated by the Commission on Labour Disputes. Violations of law of a less serious nature could also be considered in the public courts.

16. Additional information had been requested on the implementation of article 15 of the Covenant. Section G, article 3, of the Criminal Code provided that the culpability and punishability of an act was determined by the law which was in force at the time when the act was committed. A law which laid down that an act was not punishable or which mitigated the punishment for it had retroactive effect; a law which laid down that an act was punishable or which increased the punishment for it had no retroactive effect. It had been asked what was meant by a "socially dangerous act". It was a matter of translation, for the Russian term was "publicly" and not "socially". An act which encroached upon the independence and sovereignty of the Mongolian People's Republic and its public or State system, socialist property, the individual, political or labour property and other rights of citizens, or which in other ways encroached upon the socialist system of law and order, was considered a publicly dangerous act.

17. On the question of the legal capacity of aliens living on the territory of Mongolia, in connexion with article 16 of the Covenant, article 9 of the Civil Code provided that civil rights and civil obligations became applicable when a citizen attained the age of majority, 18 years. Since the article made no distinction between citizens of the Mongolian People's Republic and aliens, that meant that aliens possessed legal capacity on an equal basis with the citizens of the Mongolian People's Republic.

18. In connexion with article 18 of the Covenant, no individual was subjected to pressure either to become a believer or to become an atheist. Believers and non-believers were equal under the law of the Mongolian People's Republic. The law placed no prohibition on religious propaganda, and indeed the holding of religious services was a form of religious propaganda. The religion practised in Mongolia was Lamaism, one of the forms of Buddhism, and religion was separate from the State. The centre of the Buddhist Association of Asia was in the capital of Mongolia.

19. On the question of freedom of opinion in Mongolia, in relation to article 19 of the Covenant, the Mongolian legislation did not include any provisions which limited the right of an individual to hold or express any opinion or the freedom to seek, receive and disseminate any kind of information. The law did not, however, allow the misuse of that freedom, the undermining of the reputation of other persons or the dissemination of ideas and concepts which were directed against State security, public order, or the health or morals of the population.

20. In connexion with article 21 of the Covenant, article 87, paragraph 3, of the Constitution provided for freedom of assembly, including mass meetings. Under Mongolian law there was no limitation or prohibition on the holding of peaceful meetings provided that they did not conflict with the interests of State security or with the maintenance of public order.

21. On the question of the national minority in Mongolia, in connexion with articles 26 and 27 of the Covenant, he wished to stress that Mongolian legislation did not allow any discrimination in the matter of the guarantee and protection of human rights; all individuals were equal before the law and before the courts, and the law and the courts protected the freedom of the individual. The Mongolian people were of a single ethnic origin, but in the Western part of the territory there was a national minority of Kazakhs. They constituted an administrative unit since they lived in the territory of one of the 18 aimaks and they constituted 0.2 per cent of the population. In their aimak they had newspapers in their own language and their own radio station. In all primary and secondary schools, teaching was in the national language. The Kazakhs maintained their traditions and way of life without any restriction and had equal rights in all spheres of public and political life.

22. In reply to the questions regarding the links between the Covenant and internal legislation, there were no substantial departures from the Covenant in the legislation of the Mongolian People's Republic, so that the Covenant was reflected in the legislation. Normally international treaties to which the Mongolian People's Republic was party were implemented not directly, but through the legislation. In some instances, however, individual provisions of international agreements and treaties were directly reflected in the Mongolian Constitution. Thus article 1 of the law on citizenship provided that citizenship in the Mongolian People's Republic was regulated by that law unless otherwise provided for under Mongolian legislation or under international agreements and treaties recognized by the Mongolian People's Republic. It should be noted that if citizens of the Mongolian People's Republic made complaints or statements to State bodies or courts they could refer to provisions of the Covenant and to other international agreements.

23. On the question of the publicity given to the Covenant, the full text had been translated into the Mongolian language and printed in the official bulletin of the Government. Copies of the translation were available in libraries. Every year Mongolia celebrated the anniversary of the adoption of the Universal Declaration of Human Rights and on that occasion the ideas embodied in the Covenant were broadly publicized through the mass information media.

24. Mr. BAYART (Mongolia) said that several members of the Committee had sought information on the living conditions of the Mongolian people and the historical development of Mongolia. Mr. Opsahl and Mr. Lallah, in particular, had inquired about the transition Mongolia had made from feudalism to socialism, bypassing the capitalist stage of development. Before the Mongolian People's Republic had emerged as a result of the victorious revolution of 1921, Mongolia had been a feudalistic and backward country under foreign domination. Efforts to secure freedom and independence had failed because of the lack of an organized party to direct the revolutionary struggle and because of the unfavourable external situation. The Great October Socialist Revolution had marked a turning-point in the history of the age-old struggle of the Mongolian people for liberation and had enabled them to establish their own independent and sovereign State, with the support of the Union of Soviet Socialist Republics.

25. After the victorious revolution, the people of Mongolia had been faced with the immense task of overcoming the legacy of over two centuries of foreign domination. Foreign capital had done nothing for Mongolia. Illiteracy had remained rampant, no health services had been created, and the economy had been exploited to the limit. After 1921, the Mongolian people had undertaken a vast programme designed to rid the country of the vestiges of colonialism and feudalism and to democratic society. By 1940 they had succeeded in drastically reducing the role and influence of foreign capital and, with the assistance of the USSR, had secured economic independence, establishing co-operatives and State industries, creating a modern transport and communications system and developing key sectors of the economy. The decline of feudalism had been accompanied by the emergence of a working class and an intelligentsia of the people, who had consolidated the victory of the revolution and set Mongolia on a non-capitalist

course of development. After the Second World War, which had severely hampered the process of development, Mongolia had succeeded in the complex task of truly socialist development of the economy. The agricultural sector had been transformed through the creation of co-operatives; food, leather and other new industries had been established; a programme of free and compulsory education had been introduced to combat illiteracy; a free health care system had been developed. Thus the history of Mongolia demonstrated how a backward country could move from feudalism to socialism, bypassing the capitalist stage of development.

26. In reply to some of the questions asked, he said that there had been minor amendments to some articles of the Constitution with respect to, inter alia, the terms of office of State bodies. The Mongolian People's Republic was a socialist State in the form of a People's Democracy. The country was divided into aimaks and towns. The aimaks were subdivided into somons and the towns into horons. The highest organ of State power was the Great National Hural, which was elected by direct universal suffrage for a term of four years. The Presidium of the Great National Hural was the highest organ of State power in the period between sessions of the Hural. The highest executive body of State administration was the Council of Ministers. Local administration was in the hands of aimak, town, somon and horon Hurals of People's Deputies.

27. Sir Vincent Evans and Mr. Bouziri had inquired about the role of the Mongolian People's Revolutionary Party and the number of members. As the only party, it was the motive power of society and the State. Any citizen could join the Party on condition that he accepted its programme and charter. The current membership was almost 70,000. Members were not elected and enjoyed no special privileges. Political decisions taken by the Party did not have the force of law; its power lay in its authority, prestige and influence.

28. Mr. Opsahl, Mr. Hanga and Mr. Lallah had inquired about the Constitution. The first Constitution - adopted in 1924 - had been amended in 1940 in the light of socio-economic developments. The current Constitution had been examined by the workers and adopted by the Great National Hural in 1960.

29. The Great National Hural had recently amended article 19 of the Constitution, inter alia, extending the right to initiate legislation to the Procurator of the Republic and vesting that right also in the Central Council of the Mongolian Trade Unions and the Central Committee of the Revolutionary Union of Mongolian Youth.

30. With reference to Mr. Lallah's question on the abolition of the Constitution under article 94, he said that a full answer to the question, which involved theoretical matters relating to the Marxist theory of the full and final victory of communism and the Marxist-Leninist theory of the State, would require more time than was available and he begged the Committee's indulgence to allow him simply to indicate the theoretical background of the problem.

31. With regard to the question raised by Mr. Hanga, Mr. Koulishhev and Mr. Movchan concerning the role of the Procurator, he said that the Procurator was responsible for supervision of strict execution of the laws by Ministries, by State, regional and local bodies and enterprises, and by individuals. The Procurator acted on the basis of the Law on Procuratorial Supervision and he and his subordinates were called upon, on behalf of the State, to suppress all infractions of the law.

32. With regard to the question raised by Mr. Prado Vallejo, Mr. Movchan and Mr. Graefrath concerning the structure of the court system in Mongolia, he said that there were three categories of courts: the people's courts, whose judges were elected by universal, direct and equal suffrage by secret ballot for a term of three years; the Aimak and city courts, whose judges were elected by the Aimak and city Hural of people's deputies; and the Supreme Court, whose judges were elected by the Great National Hural for a term of four years. Any citizen who had reached the age of 23 years and had completed higher legal education could become a judge. There was also a system of military courts.

33. In reply to a question asked by Sir Vincent Evans, Mr. Graefrath and Mr. Hanga concerning the education of children, he said that approximately 45 per cent of the population consisted of young people up to 18 years of age. The authorities had been generally successful in establishing a system of free education and child care centres and nurseries. Children's rights were broadly protected by various laws.

34. With regard to a question asked by Mr. Hanga concerning property relations in the country, he said that there were two forms of property: socialist property, which was the sacred and inviolable basis of the socialist system, and private property, which citizens were entitled to own for the satisfaction of their material and cultural needs and to supplement their income, although it must not be used in a manner contrary to the interests of the State and society.

35. With regard to a question raised by Mr. Prado Vallejo concerning propaganda advocating nationalism and chauvinism, he said that such ideas were considered reactionary, since they incited hatred between peoples and races and attempted to justify nationalistic exclusiveness and domination, and were prohibited in the Constitution.

36. The CHAIRMAN thanked the representatives of the Mongolian People's Republic for their co-operation with the Committee and for having supplied much useful additional information and explanations. He hoped that the dialogue between the Mongolian People's Republic and the Committee would continue and that the Mongolian Government would feel free to supply further additional information in written form for consideration by the Committee.

37. Mr. BOUZIRI said that there had possibly been a misunderstanding with regard to one of his questions. He had not intended to urge that the Mongolian People's Republic should incorporate article 21 of the Covenant into its internal legislation but had only wished to say that the report submitted by Mongolia had not provided much information with regard to that article and that it would be useful to have more. Furthermore, with regard to the section of the report dealing with article 6 of the Covenant and his question concerning the death penalty, he felt there had probably been a problem of translation, in that the crime described by the Mongolian representative in his answer seemed much more serious than would ordinarily be understood by the French word "diversion".

The meeting rose at 5.15 p.m.