

Questionnaire on National Human Rights Institutions and human rights defenders

It would be greatly appreciated if responses were brief. They may be submitted in bullet- point form if preferred.

Please note that responses to the questionnaire will be published on the website of the Special Rapporteur and will be used to inform her next report to the UN Human Rights Council in March 2013. If requested, the response from your Institution will remain confidential.

1.	<p>a) Please provide a brief overview of the legislative framework adopted to establish a National Human Rights Institution (hereafter 'the Institution') in your country. Please cite the names of any such laws or regulations in full.</p> <ul style="list-style-type: none">• National Human Rights Commission of Mongolia was established in 2001 under the Law on National Human Rights Commission of Mongolia, adopted in 2000.(http://www.mn-nhrc.org/eng/28/29/) <p>b) Please indicate how these laws and regulations comply with international human rights standards, and in particular, the Paris Principles.¹</p> <ul style="list-style-type: none">• According to the Law the Commission is mandated to promote, protect, and ensure the human rights and freedoms in Mongolia. In compliance with Paris Principles, its mandate constituted in the Law provides the Commission with competencies to give proposals and recommendations to the Government, to recommend it to comply the national legislations with international human rights standards and norms, conduct monitoring over the implementation of the international treaties Mongolia is a party to, to urge the Government to accede to the international human rights instruments, to provide technical and professional assistances in conducting human rights training and developing research program, to promote human rights education, to investigate human rights violations at its own initiatives or on the complaints. <p>c) Please indicate the current accreditation status of the Institution with the International Coordination Committee (ICC) and what measures, if any, have been taken to implement the recommendations highlighted at the most recent ICC Sub Committee on Accreditation meeting² with a view to strengthening NHRI's compliance with the Paris Principles.</p> <ul style="list-style-type: none">• Accredited with 'A' status in 2003 and 2008. Next accreditation process is due in the second half of 2013.
2.	<p>a) Please provide details outlining the mandate adopted by the Institution in relation to the protection and promotion of human rights in accordance with the range of competencies and responsibilities specified in the Paris Principles.</p> <ul style="list-style-type: none">• In accordance with the provisions of the Law on National Human Rights Commisison of Mongolia, the Commission shall exercise the following powers:<ul style="list-style-type: none">- To put forward proposals on any human rights-related issues;- To put forward recommendations and/or proposals on whether laws or administrative

¹ Principles relating to the Status of National Institutions (The Paris Principles), adopted by TJN General Assembly resolution 48/134 on 20 December 1993

² At the 22nd Meeting of the International Coordinating Committee of NHRIs (ICC), held in Geneva from 23 - 27 March 2012, the organisation's Sub-Committee on Accreditation presented three new General Observations developed at its November 2008 session.

	<p>decisions are in conformity with the key human rights principles;</p> <ul style="list-style-type: none"> - To put forward proposals on the implementation of international human rights treaties and/or drafting of Government reports thereon; • The Commission shall carry out the following activities within its powers: <ul style="list-style-type: none"> - To conduct research on human rights issues and provide necessary information; - To collaborate with the international, regional and other national human rights institutions; - To produce reports on the human rights situation in Mongolia; - To increase public awareness about the laws and/or international treaties relating to human rights; - To promote human rights education activities; - To encourage ratification of and/or accession to the international human rights treaties. <p>b) Please indicate whether the Institution is mandated to consider and/or adjudicate individual complaints of human rights violations.</p> <ul style="list-style-type: none"> • The Institution is mandated to receive and resolve individual complaints on human rights violations. <p>c) If relevant, please indicate whether the mandate is limited to specific rights or whether complaints against the Government, the police and/or the military are permitted and how they are dealt with.</p> <ul style="list-style-type: none"> • The Mandate of the Commission is not limited to specific rights. It receives any complaints on human rights violations against the Government, the police and/or the military unless the complaints refer to the criminal, civil, and administrative cases and/or disputes, which are at the stage of registration/inquiry of cases, investigation and/or on trial or have been already decided. However, the Commission may receive complaints which claim human rights are violated during the proceedings of such cases. <p>d) In this regard, please indicate whether the Institution is empowered to carry out protection related functions including providing remedies to victims of human rights violations, witness protection mechanisms and conducting visits to detention facilities.</p> <ul style="list-style-type: none"> • Even though there is not any effective mechanism or legislation which empowers the Commission to conduct witness protection duties, Commissioners have unrestricted access to any business entity or organization, including detention centers, and to participate in their meetings and conferences, and to meet in person with the relevant officials. Commissioners shall write and deliver demands to relevant organisations in order to restore human rights and freedoms and eliminate the violations if he/she has considered that business entity, organisation or official has violated human rights and freedoms. Another way for the Commission to provide remedies for the victims is to file litigation on behalf of the complainants. As for protection for witness, right now the Commission is cooperating with relevant ministries and government agencies in developing the draft law on protection for witnesses and victims.
3.	<p>a) Please indicate what mechanisms, if any, are in place within the Institution to ensure that human rights defenders at risk are protected (e.g. through protection programmes, early warning systems or by submitting complaints to regional bodies on specific cases).</p> <ul style="list-style-type: none"> • Pursuant to Article 18.2 of the Law on National Human Rights Commission of Mongolia, Commissioners may conduct inquiries at his/her own initiative on the basis of information with regard to violations of human rights and freedoms or at the request of

	<p>business entities, organisations or officials. Within this capacity the Commission can take urgent actions to ensure that human rights defenders at risk are protected by conducting investigations and delivering demands and recommendations to relevant authorities.</p> <p>Article 19.3 states Commissioners shall make recommendations within his/her own competence and deliver them to relevant business entities, organisations or officials in order to eliminate reasons and conditions in case there is possibility for violations of human rights and freedoms. In addition, according to Article 19.4 Business entities, organisations or officials shall inform in writing with regard to measures undertaken within 1 (one) week if they have received demands, and within 30 (thirty) days if they have received recommendations from Commissioners. Article 23.4 indicates Business entities, organisations and their officials and citizens shall have obligations to render all kinds of assistance to Commissioners in exercise of his/her powers.</p> <p>b) Please indicate whether any obstacles or challenges exist with regard to the effective protection of human rights defenders through these mechanisms, and how the Institution addresses them.</p> <ul style="list-style-type: none"> Article 26.1.2 provides sanctions by imposing fine to those who have violated the Articles 19.4 and 23.4. However, as the amounts which are imposed by this clause are not large enough to enforce the Law, there is a possibility that the persons, organizations, and authorities who violated the Law might wish to pay the fines without attempting to adhere to the provisions of the Law. (Article 26.1.2. A citizen who has violated Art 19.4 and Art 23.4 of this Law shall be liable to a fine to Tg 10,000-50,000, an official to Tg 20,000-60,000 and a business entity or organisation to Tg 30,000-250,000)
4.	<p>a) Please describe the working relationship between the Institution and civil society, including human rights defenders, in accordance with the Paris Principles.</p> <ul style="list-style-type: none"> Under the Clause 24.3 of the Article 24 of the Law on the Commission, it has an advisory body involving representatives of civil society who work in the human rights field. <p>b) Please indicate whether any challenges or obstacles exist that may prevent interaction and cooperation with civil society and/or human rights defenders and how the Institution seeks to address them.</p> <ul style="list-style-type: none"> No
5.	<p>a) Please indicate whether any member of the Institution's staff has ever been the victim of threats, or other kind of harassment, as a result of work carried out on behalf of the organisation.</p> <ul style="list-style-type: none"> Even though the Commission's staff has never been subject to treats or any other type of harassments because of the work it conducted since its establishment, there is a case in which an elected official of the Confederation of Mongolian Trade Unions was subjected to physical attack while the working group appointed by the Commission is conducting joint inquiry with their staff in countryside. <p>b) Please specify what mechanisms, if any, are in place to protect Institution members investigating human rights violations. If applicable, please specify what mechanisms at the institutional, national, regional and international level have been employed to protect Institution members.</p> <ul style="list-style-type: none"> When they conduct their duties, Staff members of the Commission is supposed to adhere to the Procedure on Staff Security of the Commission, adopted by the Chief Commissioner's decree 29 in 2011.

	<p>c) Please indicate whether the Institution has ever been subjected to an unannounced visit by representatives from the police or state authorities, or if it has otherwise been subject to interference or threat that may jeopardize its independence as a national human rights institution under the Paris Principles.</p> <ul style="list-style-type: none"> • No.
6.	<p>a) Please indicate the main sources of funding for the Institution.</p> <ul style="list-style-type: none"> • State budget under the Clause 22.1, and 22.2 of Article 22 of the Law on National Human Rights Commission of Mongolia. • Support from international and foreign donor organizations. <p>b) In this regard, please indicate whether any challenges exist, particularly in relation to the functional autonomy of the organisation and how this impacts on the work of the Institution.</p> <ul style="list-style-type: none"> • When funding from the state budget is sometimes reduced due to the world or domestic economic crisis, the financial capacity of the Institution to conduct human rights promotional activities declines.
7.	<p>a) Please describe the procedures in place relating to the selection and appointment of members of the governing body.</p> <ul style="list-style-type: none"> • The Speaker of the State Great Hural (Parliament) shall nominate names for candidates for Commissioners to the State Great Hural on the basis of respective proposals by the President, the Parliamentary Standing Committee on Legal Affairs and the Supreme Court. <p>b) Please indicate what mechanisms are in place to ensure independent scrutiny of candidates and security of tenure for members of the governing body.</p> <ul style="list-style-type: none"> • Article 23 of the Law on the Commission defines the legal guarantees for the powers and security of tenure of the Commissioners.