**Contribution from NHRC of Mongolia: Designing and implementing effective human rights-based housing strategies**

According to the statistics on the mid-term population census released by the National Statistic Committee of Mongolia, the population reached 3 million 57.8 thousand as of 31 December 2015, and it increased by 2.2% or 303.1 thousand people compared to 2010 census data.

The total household number has reached 859.1 thousand, which means increased by 20.4% compared to 2010. The capital city of Mongolia, Ulaanbaatar is home to 1.345.500 permanent residents, and out of all the permanent residents, 650,979 were male and 694,521 were female[[1]](#footnote-2).

Newly arrived rural-to-urban migrants have been facing difficulties in fully enjoying their political, economic, social, and cultural rights as the migration flow increases. For instance, their basic rights that have been enshrined in international conventions including the right to vote, the right to proper housing, the right to social service, the right to health, the right to education, the labour rights, and the right to environment, at risk of being violated.

There are difficulties and challenges in urban planning and management, and coordination issues due to the overpopulation of Ulaanbaatar, the capital city, which accommodates more than 40% of the total population. More than half of the Ulaanbaatar population lives in “ger” districts, which are not connected to state utility supplies and sewerage. As of 2015, 58.1% of total population is living in ger district, whereas 41.9% is living in apartments[[2]](#footnote-3). Besides that, ger districts have been extending due to the rural migrants who cannot afford to buy an apartment.

In recent years, the number of residential apartments as well as the number of households living in apartments has increased by almost 40 thousand households. However, the number of “ger” dwellers has not decreased due to the increased migration flow from rural to urban area, namely Ulaanbaatar city. As a result, Ulaanbaatar city is over-populated now.

As mentioned above, more than half the population of Ulaanbaatar is living in ger districts which are not fully connected to the central sewerage and infrastructure. As a consequence, those people living in ger districts face difficulties in dealing with smog fuming from their chimneys, dust and soil erosion caused by pit toilets and household wastes, and sanitary and hygiene issues.In order to resolve above issues, the Mongolian government needs to re-plan the ger district areas, to construct apartments by removing ger districts, and to make the current urban planning policy, management, and legal frameworks in line with the basic human rights and norms, and to improve the relevant policies and regulations that should be based on research and be inclusive of concerned communities, and to pay attention to the implementation of the policy, regulation and legal frameworks.

According to the relevant laws of Mongolia and urban re-planning, people who have not secured their right to property (land) officially, but have been living in ger or house on specific areas/lands for certain period of times, but they are not entitled to be involved in the urban re-planning. In other words, they are at high risk of being deprived of their de facto land property. This is because they have failed to obtain a license for land ownership or land possession. Entitlements of the landowner and land possessor do not include people, along with their relatives or children, living in ger or house built on a land of owner or possessor or tenants. They are constrained by the enjoyment of their right to compensation, redress, and consent. Therefore, they are not allowed to participate in consultation meeting for re-planning and other project activities due to the lack of licenses for land ownership and possession.

The National Human Rights Commission of Mongolia, jointly with Amnesty International Mongolia and other relevant organizations, have organized a scientific and practical conference on “Urban re-planning – Vacate Land – Human Rights” on 19 May 2017 with a purpose of developing a human rights-based, responsible urban planning and vacateland policy, management and activities. The conference raised and discussed the following issues: the violations of the right to property of land and immovable property derived from the urban re-planning issues; implementation of the right to proper housing; re-planning policy and legal frameworks of Ulaanbaatar city; forms of consultation and participation of concerned communities; and compensation and dispute solutions. As a result, the conference organizers have developed and submitted the following recommendations to the relevant authorities to improve the current enacting laws:

* Due to the unspecific and inconsistent regulations and guidelines of urban development policy and laws passed by the Parliament, competent authorities interpret the regulations and articles of the relevant laws on their own ways. Moreover, there is a lack of coordination and consistency between the competent authorities and organizations, which leads to violation of human rights, particularly the right to land property. Therefore, the agenda and guidelines of urban planning development should be redeveloped consistently with the Mongolian Sustainable Development Vision[[3]](#footnote-4) and should be reflected in the state policy on urban development. In addition, the relevant laws[[4]](#footnote-5) on urban planning should be reviewed whether they are in line with international human rights and norms, and the relevant laws should be improved.
* The Government should consider the United Nations Human Settlements Programme that calls the states to ensure that no one is left behind in the implementation of the urban planning and development policy, regulations and activities. Thus, the Government should consider the world development trends in developing and enacting the policy and legal frameworks on urban planning.
* In implementing a project or programme on urban redevelopment, it is legalized that project implementers should obtain a consent[[5]](#footnote-6) of no less than 80% of the concerned land and immovable property owners and possessors, and then make a contract. However, the relevant laws did not include any provisions concerning the interest of those who do not approve the implementation of the project/programme. Thus, the state needs to amend these laws.
* To specify preemptive and immediate action as well as obligations and responsibilities of central and local organizations in an event of violations of human rights and freedoms guaranteed in laws due to the cessation of project/programmes on urban re-development caused by any social, economic and political circumstances.
* The state needs to consider the current enacting laws and policy documents that have completely overlooked[[6]](#footnote-7) the issue of the possibility of including those people, who do not have the legal licenses of land ownership or land possession, in the consultation, delivery of information, and in the activities during a course of a project implementation. Thus, the state should use “Social welfare support program[[7]](#footnote-8)”, which also supports individual household members who require social welfare assistance to meet their basic daily needs, as a guideline to solve the issue of those people, if they meet the criteria of the social welfare support program, and to include the feasible assistance and concession necessary for those concerned people in the project plan. In this regard, the state should amend the Law on urban redevelopment in order to ensure the rights of those people by including the obligations of both relevant public organizations and a project implementer.
* Short, mid, and long-term plans for urban redevelopment should be developed and adopted by ensuring the participation of concerned communities, and the information regarding the implementation of above plans should be accessible to the public. The government should create a legal framework that can enable the implementation of an independent monitoring mechanism.
* There is an urgent need to establish an independent mechanism to monitor a project implementation in relation to the urban redevelopment and planning. This independent mechanism should have the mandate to review whether there is an incidence of violation of human rights and to receive such complaints from concerned communities and public.
* For claimants of the right to housing, the follows laws are applicable*: Law on Civil Procedure, Law on Administrative Procedure, General Administrative Law*, and *Law on Handling Petitions and Complaints Made by Citizens to the State Agencies and Public Officials*. However, the legal regulations need to be improved in order to ensure the remedy and resolution of human rights violations caused by a project/programme on urban redevelopment and planning.
1. Data of National Statistics Committee, 2016 [↑](#footnote-ref-2)
2. Information about living condition of Ulaanbaatar inhabitants by the Metropolitan Statistic Agency, 2016 [↑](#footnote-ref-3)
3. Mongolian Sustainable Development Vision– 2030 adopted by the resolution 19 of the Parliament, 2016 (<http://www.un-page.org/files/public/20160205_mongolia_sdv_2030.pdf>) [↑](#footnote-ref-4)
4. Law on Urban Planning, Law on Urban Redevelopment(<http://mad-strategy.com/wp-content/uploads/2015/11/Urban-Redevelopment-Law-Legal-Analysis-Case-Study-Final.pdf>) [↑](#footnote-ref-5)
5. Article 14.7.1, Article 18.2, and Article 20.1.4 of Law on Urban Redevelopment [↑](#footnote-ref-6)
6. Amnesty International, Research report 2016 [↑](#footnote-ref-7)
7. Article 3.1.2 of Law on Social Welfare [↑](#footnote-ref-8)