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Conference on the implementation of human rights in the criminal justice system of Mongolia

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ABBREVIATIONS

CAT	Convention against Torture
EU	European Union
GSP+	Generalised Scheme of Preferences+
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MFA	Ministry of Foreign Affairs
MOJHA	Ministry of Justice and Home Affairs
NGO	Non-Governmental Organisation
NHRCM	National Human Rights Commission of Mongolia
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SIU	Special Investigation Unit
TRC	Training and Research Centre
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UN CERD	United Nations Convention on the Elimination of All Forms of Racial Discrimination
UNCRC	United Nations Convention on the Rights of the Child
UNHRC	United Nations Human Rights Committee

I. INTRODUCTION

In Mongolia, reforms of the criminal justice system have maintained considerable traction ever since the country chose for democracy in 1990. As a result, major positive revisions have been introduced in the Criminal Code, Criminal Procedure Code, Law Enforcement Law, Prosecution law and the Law on Police. Other closely related legislation, such as the Law on Domestic Violence, Child Protection Law and the Law on Breach of Contact, has recently been adopted and further contributes to enhanced human rights protection in Mongolia. Importantly, Mongolia has established new human rights bodies and ratified numerous human rights treaties that have significant bearing on the country's criminal justice reforms.

While the country's adherence to internationally accepted human rights norms and standards pertaining to criminal justice should be applauded, progress in practice has been slow due to the lack of resources and experiences. The persistent flaws in the criminal justice system in Mongolia have not gone unnoticed by the United Nations human rights Treaty Monitoring Bodies: in last year's report, the UN Human Rights Committee (UNHRC) expressed its concern about *inter alia* the incomplete definition of torture in the new Criminal Code; the effect of corruption on the impartiality of the judiciary; and the widespread use of pre-trial detention as well as solitary confinement of prisoners. Adverse developments could jeopardise progress made in criminal justice reform as, for instance, alarming calls for the re-introduction of the death penalty have been heard in the political arena in recent months.

The opportunities and challenges in criminal justice reform have prompted the European Union Delegation in Mongolia and the Government of Mongolia to devote this first in a series of three joint human rights conferences to the implementation of human rights in the criminal justice system of Mongolia. The conferences, financed by the EU Partnership Instrument, are concrete initiatives under the EU's 2016-2020 EU Human Rights and Democracy Country Strategy for Mongolia which aims to maintain a human rights dialogue and thus assist the country in improving its compliance with its international human rights obligations.

The conferences are complemented by EU support to two expert-level regulatory dialogue visits in the EU by staff from the Prosecutors' General office of Mongolia. These visits aim at strengthening their capacity to implement the Criminal Code and the Criminal Procedure Code in line with international human rights and criminal justice standards. To this end, the EU will make relevant international human rights conventions accessible in the Mongolian language. European experts will subsequently train staff of the Training and Research Centre (TRC) of the Prosecutor General's Office to conceptualise and implement specific training programmes regarding international human rights standards, pre-service and in-service training for prosecutors in line with the provisions of the new Criminal Code.

In this first conference on the implementation of human rights in the criminal justice system of Mongolia, which took place at the conference hall of the Mongolian Ministry of Foreign Affairs on 16 January 2018, over one hundred participants including prominent governmental and civil society stakeholders as well as national and international experts deliberated on advances and remaining challenges in critical areas of the country's criminal justice system. Over the one-day conference, participating state representatives included the judiciary, prosecution, and the police. Moreover attorneys, academics, media and several civil society actors participated. The conference was opened by Mr. G. Bayasgalan, State Secretary of the Ministry of Justice on behalf of the Government of Mongolia and by Mr. Marco Ferri, the Chargé d'Affaires of the Delegation of the European Union to Mongolia.

The plenary sessions were organised around four major thematic panels. All four panels sought to identify obstacles in the effective implementation of new criminal justice and related laws as well as the remedies criminal justice actors in Mongolia need to overcome these obstacles.

- The first panel addressed advances and challenges in implementing the criminal code in line with human rights principles and rule of law standards. This session covered reforms in the classification of crimes, in crime penalties and of other legislation in view of the new law on Criminal Code which came into force on 1 July 2017.
- The second panel focussed on the key reform issues of the criminal procedure code. Critical issues under discussion were prosecution and fair trial challenges, torture and other human rights issues in the administration of justice, and prison reform. International human rights law and criminal justice was the subject of the third panel which raised issues related to the protection of witnesses and victims as well as the critical role of human rights defenders and others in representing their interests.
- In the final panel discussion, panellists highlighted key issues relating to the prevention, investigation, prosecution and protection of violence against women and children, as well as international juvenile justice standards in light of criminal justice reform in Mongolia.

While the author of the present report strives to be as comprehensive as possible, it does not provide an exhaustive account of all discussions and interventions. Instead, it provides an overview of the discussions that took place and highlights from the constructive and detailed exchanges held the recommendations and conclusions reached by participants.

Finally, the team in charge of implementing the project *Support to the EU-Mongolia Human Rights Dialogue* would like to express their gratitude to the authorities of Mongolia, particularly the Ministry of Foreign Affairs, who hosted the Conference.



II. SUMMARY OF DISCUSSION AND RECOMMENDATIONS

A. OPENING REMARKS

The conference was warmly welcomed by the opening speeches of the State Secretary of the Ministry of Foreign Affairs Mr. D. Davaasuren, the State Secretary of Ministry of Justice and Home Affairs Mr. G.Bayasgalan and Mr. Marco Ferri, Chargé d'Affaires of the Delegation of the European Union to Mongolia.

In his opening speech, the State Secretary of the Ministry of Foreign Affairs (MFA) Mr. D. Davaasuren appreciated the role of the human rights dialogue during the 17th regular meeting of the Joint Committee of Mongolia and EU on 30 March 2017. Mr. Davaasuren emphasized the potential of EU-Mongolia cooperation for the protection of human rights and the rule of law. Furthermore, he noted, the Dialogue would contribute to the refinement of the partnership and collaboration between Mongolia and the EU and, thus, deepen their mutual understanding. One of the substantial outcomes of the human rights dialogue between Mongolia and the EU is the project “PSF support to the EU Mongolia Human Rights Dialogue” which was launched and started being implemented in Oct. 2017. Mr. Davaasuren expressed his confidence that the conference on strengthening reforms in the Mongolia’s criminal justice system in compliance with country’s obligations under international human rights law would lead to the expected outcomes. He also underscored the weight of the conference in terms of identifying key criminal justice issues to be resolved. In view of Mongolia’s accession to around fifty international human rights treaties, Mr. D. Davaasuren noted the importance of ensuring implementation of international human rights law and its incorporation into domestic legislation. He also underscored the need to properly report on the country’s implementation of these laws vis-à-vis the treaties’ committees.



Mr. G. Bayasgalan, the State Secretary of the Ministry of Justice and Home Affairs (MOJHA) stated that the amendments to the Criminal Law, the Criminal Procedure Code, the Law on Infringement, and Infringement Procedure Code, in force since 1 July 2017, would significantly improve the criminal justice system of Mongolia by strengthening the protection of human rights, fundamental freedoms and justice in the country. The Law on Making Amendment to Criminal Law allows for the expansion of penalties other than imprisonment: imprisonment is not

charged in around 15% of the crimes defined by the law and many of such advanced reforms were made in compliance with internationally accepted criminal justice principles. One of the major changes, he mentioned, is that “any infringement and its corresponding penalty would be defined only by the infringement in the future, with an aim to protect social order and

public interest. Whereas previously, different standards have been applied in the proceedings of infringement such as sector-specific laws and regulations in addition to the Law on State Supervision, now the principle of equality before the court everyone enjoys as reflected in Mongolia's Constitutional Law, will be consistently applies in infringement proceedings. The integrity of a country's criminal justice system indeed becomes a criterion for assessing whether its justice system is entirely just or not. Overarching principles such as the right to equality before the court; the protection of an individual's integrity; judicial independence; and fair trial etc., are all legitimized. The Criminal Procedure Code now stipulates with more clarity, for instance, that human rights violations shall not be permitted during criminal proceeding and that the use of modern technologies such as audio and video recording which may limit the enjoyment of human right is subject to the permission of judges and prosecutors. For the purpose of protecting legitimate rights of the parties in criminal proceedings, certain procedural norms and standards such as the presumption of innocence; the need for formal charges which are publicly announced; and the right to appeal have been legalized and, thus, become special regulations. As a result of enforcing this law, we believe that certain progress would be made in the course of protecting human right during the criminal proceeding". Mr. Bayasgalan underlined that during all the stages of formulating and discussing these laws, each and every sector's policies were taken into account: the views, comments and criticisms of scientists, researchers, specialists, and representatives of relevant sectors were discussed and analysed in working groups. He then expressed his appreciation to all the host organizers of this international conference.



Mr. Marco Ferri, Chargé d'Affaires of the Delegation of the European Union to Mongolia, underlined the European Union's commitment to the promotion and protection of human rights and the enhancement of the effective implementation of international human rights instruments in Mongolia and worldwide. He stated that "Mongolia is a beneficiary country of the Generalised Scheme of Preferences+

(GSP+) which provides the world's most generous unilateral trade preferences to support economic development in developing countries. It does so by granting the full removal of tariffs on over 66% of tariff lines covering a very wide array of products including, for example, textiles. The condition is that Mongolia maintains ratification and effective implementation of 27 international conventions, including core human and labour rights conventions (but also environmental protection and good governance). In our cooperation on human rights with Mongolia, the EU has concentrated on issues such as the promotion of the rule of law; assistance to civil society development; the empowerment of vulnerable groups particularly in remote areas; and the provision of access to effective mechanisms for redress and to public services that can promote economic, social and cultural rights. The Mongolian side requested the EU to expand its cooperation to ensure the effective implementation of International Human Rights instruments and their integration into Mongolian national legislation. This Conference is the practical outcome of that request. In addition to supporting this first in a series of three human rights conferences, the EU will also contribute to making relevant international human rights conventions accessible in the Mongolian language. But these are not stand-alone conferences. We will also support two expert-level regulatory dialogue visits in the EU by staff from the Prosecutors' General office of Mongolia".

B. PANEL 1 "ADVANCES AND CHALLENGES IN THE CRIMINAL CODE IN LINE WITH HUMAN RIGHTS PRINCIPLES AND THE RULE OF LAW STANDARDS"

B.1. Reforms, major changes and challenges in the classification of crimes and reforms of other legislations to be incorporated critical to the new Criminal Code



It is almost six months since criminal laws have been endorsed, and other laws reformed with the main objective of protecting the values espoused in the 1992 Constitution. The Constitution validated human rights, individual freedoms and property which needed to be reflected in new laws. Reform of the Criminal law is, firstly, aimed at domesticating the world tendency to protect Constitutional values and

fundamental human rights and freedoms in the criminal justice sector. Secondly, it intended to enhance the development of an alternative punishment system and structure as well as to adhere to the policies to work with the offenders. The Criminal Law reform is designed to develop a crime penalty system that is more appropriate and responsive to the harms inflicted on society. In addition, it aims at regulating some of the acts which are to be classified in the legislation as the new forms of crimes.

The new law is firmly underpinned by the principles of justice and non-discrimination. The legal prohibition to transfer a foreign citizen to countries of origin where the death penalty and torture are still practiced is but one example progress made in terms of human rights. Others are the ‘enlightened’ sentencing guideline set out in the law: mitigating factors can be first-time offences committed by a person; cases where the defendant has provided medical and other assistance to the victim; crimes committed under duress; crimes triggered by the victim’s illegal and indecent activities; cases in which the offender himself reported the crime to the authorities; and crimes committed in cases of self-protection from constant abuse and battery.

The Criminal law has been reformed in adherence to human rights and freedoms through a focus on rehabilitation rather than punitive approach that long prevailed in the criminal justice sector. Moreover, now in the classification of crimes emphasis is given to crimes against human lives, health, wellbeing and personal integrity whereas previously the law prioritized crimes against the state. New forms of classification of crimes such as domestic violence, crimes against sexual integrity and the crimes against children have been introduced in the law as constitute a major development in the protection of human rights.

The panellist and the participants concurred that the use of this law has faced enormous challenges in practice such as the lack of coherent knowledge and training on how to understand the new changes and effectively apply them in practice. Indeed, there is much concern and confusion surrounding the interpretation and use of these changes in practice. Panellist Mr. Ouynbold, prosecutor at the Prosecutor General’s Office, concluded that the major challenge in using the amended laws in practice is mainly due to persistently rigid

mentality; a lack of ethical standards; and the use of old approaches by the investigators, prosecutors and the judges in their respective lines of duties.

The participants in the panel discussion expressed their desire to organize similar conferences and training programmes for legal professionals with an aim to accelerate criminal justice reform in line with international human rights and the rule of law standards. All these changes need to be effectuated through increased public awareness and enhanced expertise in complex legislation that addresses new areas of crime.



B.2. Crime Penalties and Human Rights: Criminal Justice Reform issues

Dr. D. Bayarsaikhan, Professor at the National University Law School gave a presentation on crime penalties. The Criminal Procedure Code is the central criminal legislation. Currently the international community is assisting the Mongolian authorities in establishing best practices for criminal justice. There is still a long way to go.

Mongolia has committed to 54 international conventions, which now have to be incorporated in domestic legislation. Critically, the biggest domestic challenge will lie in the implementation of international norms and standards. Penalties for offences can be seen as serving the efforts to implement the criminal justice system. At the same time, however, there is also a need for the wider public to understand the objectives and functions of the criminal justice system.

Penalties can be justified in several ways; they impose a duty on the offender to repay society and victims of crime, or also can be a device to socialise convicted persons. Some countries prefer a new approach which focuses on the offender compensating victims.

The right to life is a basic human right that needs to be implemented and the death penalty should be prohibited as much as possible. If the death penalty is to be imposed – it must be humane. It should be noted however that many countries throughout the world have abolished the death penalty. This development should prompt in-depth reflections in Mongolia on intentions to re-introduce the death penalty. It is necessary to protect human rights by law – and these should not be limited. The death penalty is currently no longer imposed but there is

an attempt to re-introduce it. Mongolian laws have been re-constituted and domestic laws changed, but there is a lack of public awareness.

It shall be considered that in recent times it has been commuted to terms of imprisonment. It has been asserted that the issue of the death penalty intentionally diverts attention from other societal problems the government has to respond to. The root causes underlying the call for the death penalty need to be identified. Alternatives to capital punishment should be sought and altogether be ruled out for pregnant women.

There are challenges in efficiently determining methods of implementation of laws. Post conflict countries have benefited from international model laws. In drafting legislation, fundamental human rights should be incorporated, and any penalties must be well defined.

Mongolia must establish health system capacity to assess the level of damage that is caused to victims (physical and psychological). This final point was identified as a conference recommendation.



C. PANEL 2 "THE KEY REFORM ISSUES OF THE CRIMINAL PROCEDURE CODE AND MAJOR HUMAN RIGHTS CHALLENGES"

C.1. Changes and Reforms in the Criminal Procedure Code



The Assistant-Prosecutor to the General Prosecutor of Mongolia, Head of Crime Registration and Monitoring Centre, Mr. Bat-Orshikh presented his topic related to the main amendments and reforms made to the Criminal Procedure Code.

“One of the main points of criticism we received

on the previous law was that those in charge of inquiry and investigation had been taking measures aimed at proving that the criminal case was based on interrogation only. Other types of investigative operations were typically not being done and, thus, criticism focussed on the resulting human rights violations. Therefore, we paid significant attention to investigative methods during the formulation of the Criminal Procedure Code. We had to avoid using terms such as case registration and interrogation. We had to give more weight to investigation methods, tactics and methods other than interrogation as much as possible. In this respect, one can conclude that main regulations are reflected in the Criminal Procedure Code” stated Mr. Bat-Orshikh.

The previous Criminal Procedure Code allowed for criminal charges and the accusation of suspects and defendants based on mere suspicion by the victim. In contrast, the amended Criminal Procedure Code allows criminal case to be initiated and a person to be defendant only when a criminal case is validated through specific documents and facts, and when such facts themselves meet requirements detailed in the Criminal Law. Thus, only in such cases can the detention of a person or the application of other measures be justified.

There were challenges during the process of examining complaints and grievance relevant to a potential crime: for instance, witnesses suddenly withdrew their previous testimonies after the initiation of a criminal case, and they start testifying differently. In other words, ways and methods of changing such testimonies through exerting pressure on the main witness of a certain crime were quite prevalent. Main regulations aimed at eliminating these situations have been introduced.

According to the previous law, there was no clear and transparent procedure for assigning a penalty for each committed crime. However, there have been positive developments. Previously, if a case opened and 100 items were stolen, then the investigation would seek to find all relevant facts without any time limits. Reforms have required more expedition in getting cases to court – such cases can be separated and thus more easily and promptly expedited to court. In the past cases could drag on for over 10 years.

One of the main changes made in the new Criminal Procedure Code is the principle that no case can get suspended. In other words, now a criminal case shall be investigated until the suspect is identified. According to the previous law, it was possible to suspend a case if the suspect could, allegedly, not be identified so that in practice a case could have been left untouched in the file cabinet of investigators for 10 or even 20 years. In contrast, the new law necessitates the identification of a suspect of a crime, either as an individual or an entity. At the same time, the rights of the victim are also taken into account.

Another special regulation reflected in the new law is related to timeframes. According to the new law, the time allowed for launching an investigation is now one month, whereas the term allowed for light crimes is now 14 days. Also, the maximum duration of detention of suspects is shortened from 72 hours to 48 hours. The overall term of detention used to be up to 30 months, whereas it is changed now into 28 months. These changes were made in accordance with international agreements and conventions to which Mongolia acceded.

According to available statistics today, the number of imprisoned people in Mongolia has decreased. It is assumed that this trend is related to the implementation of the new principles and standards in the Criminal Procedure Code. The simplified procedure in criminal proceedings is another vital regulation introduced in the Criminal Procedure Code.

An important regulation reflected in the Criminal Procedure Code is the regulation relevant to secret investigative operation. According to the previous Criminal Interrogation Code,

evidence gathered by means of executive operations was accepted as substantial evidence. In contrast, under the new law, only when secret operations were undertaken on the basis of permission from a Prosecutor shall such evidence be accepted in court. For this procedural operation an investigator would issue an order to be validated by a prosecutor.

A special regulation relevant to witnesses and victims has been introduced. The prosecutor can conceal and change the name, address and employment of a witness and/or victim. The prosecutor can also take account of evidence from criminals and suspects who are identified as co-operating with the authorities provided the court has decided to agree with the accused to disclose information concerning criminal activity – so that they are identified as “sources”.

Under the new law, a case can now not be returned to the Prosecutor from the court of first instance, appeal court or Supreme Court. In other words, a criminal case shall now be resolved at the court, within the scope of identifications and evidences recorded during the case registration, investigation, or prosecution.

Advocates, prosecutors and police officials participating in the discussion expressed their concerns about the lack of training on how to use and apply these changes in practice as ill-understand the concepts and techniques prescribed in the law as major changes and many had a shared opinion that some changes in the law are not applicable on Mongolian soil as they are copied from other legal systems.

C.2. Major Challenges in the Implementation of Human Rights in the criminal justice structure in Mongolia



Dr. Batzorig, Head of the Administrative Unit of the Financial Regulatory Committee presented this topic based on his own research, studies and his direct involvement in drafting the criminal law sector laws. The Constitution provides protection for human rights. This concept has to be implemented in phases due to the need to simultaneously amend prosecutors’ outlooks and public awareness. It is important that the Criminal Procedure Code developments are well considered. For instance, human rights violations can be part of substantive discussions during trial proceedings.

Prosecutors will compile a file of evidence for the court. Claims and requests by participants in the process are attached to the case file before trial. There is an opportunity for participants to raise and discuss relevant issues during the trial. This helps witnesses to produce relevant documents etc. Documents from the accused are also available. This may result in the accused having an opportunity to delay trial by claiming that relevant documents are not available.

The new Criminal Procedure Code imposes time limits – so trials are more concise and completed more quickly. The Criminal Procedure Code has been reformed three times – but no previous code has required cases to be dealt with as quickly as the current one. The 2009 reforms have secured legal protection of victims and reinforce the rights of suspects and witnesses.

Previously, the witnesses were viewed and treated as a source of evidence during investigation and trial. Now, the witnesses are viewed as participants of criminal procedure just like all the other stakeholders and provided with the protection of their safety and rights.

Professionals face many challenges in the implementation of the new law in practice. The law came into effect only 43 days after its adoption by Parliament. The usual practice was that new law came into effect 9 months after their adoption and, thus, gave ample time and space for preparation, training of the professionals and the creation of public awareness. Now, all players in the criminal justice sector are trying to understand and explain the law within their own subject-areas and there is much confusion that exists among them. The police, prosecutors and judges seek clarification from their bosses on how to understand and use certain law articles and apply them in decision-making around cases.

The police often approach the prosecutor for guidance on how to handle and use certain procedures. It is needed to build the appropriate culture and mind-set for the effective use of this law. The entire philosophy and core values changed in this law. Therefore, it is hard for ‘old-school’ professionals in the criminal justice system to fully grasp the changes.

A recent study on the reasons behind the non- or improper implementation of laws revealed that 94 per cent of the respondents replied “there is not enough training provided”; 77 per cent replied “didn’t study the law”; 48 per cent replied “mechanism not in place”; 39.3 per cent replied “didn’t understand the law”; 39 per cent replied “due to work load can’t implement the law properly”; 27 per cent responds “due to lack of knowledge”; and 27 per cent responds that there is a lack of guidelines on how to use the laws.

This panel session created an active discussion among the participants. The practicing attorneys criticized the old mentality of police, prosecutors and judges as it was mentioned that without changing mentality the implementation of reform is not possible. Many mistakes in practices were thought to be made - even when the previous laws were still in place - as a result of a lack of sophistication, a non-conducive mind-set, and flaws in the coordination and organization of relevant activities by authorities.

When the previous laws were still in force, the involvement of defence attorneys was very limited. This practice still exists now when attorneys still have limited powers to protect human rights during criminal proceedings, which is to them a most frustrating limitation. Practicing attorneys need to get more involved in changing laws and pushing reforms. Mr. Bayasgalan, State Secretary of the MOJHA, mentioned in his concluding remarks that a working group had been established in the Ministry to re-visit the changes of the Criminal Procedure Code and to introduce amendments.

D. PANEL 3 "INTERNATIONAL HUMAN RIGHTS LAW AND CRIMINAL JUSTICE"

D.1. International Human Rights norms in the investigation and prosecution of crimes and the exercise of fair trial



This topic was presented by Mr. Francis Davis (Ireland/United Kingdom), an independent Criminal Justice expert and Prosecution Advisor. He underlined the main human rights principles enshrined in international human rights law for the criminal justice practice. The prosecutor needs an appreciation of what the challenges to accomplishing a fair trial are – what are the influences that might make it difficult to achieve justice, or that get in the way of justice being done, where the overall objective is the ability of the process to get to the truth of a matter alleged against a person (or as close as the available evidence will allow) where the presumption of innocence is respected, the rights and needs of the person who makes the allegation are equally respected, a commitment to fully investigate and to disclose evidence that could assist defendants being paramount. It is vital to link the ethical and the universal rights that apply to the concepts of fairness applied to the Prosecution’s functions concerning investigation and prosecution of allegations of crime.

The emphasis is on “due process”. The regulations and practices applied in the investigation and prosecution of offences must be designed to ensure fairness to all involved in the process, and must be observed throughout, by police officers, prosecution officers, prosecutors and defence representatives in a professional and obedient manner. This is why esteemed international and humanitarian organisations and agencies [United Nations, International Commission of the Red Cross/Crescent, International Association of Prosecutors and many regional associations throughout the world] have over the years provided guidance and frameworks to assist those institutions that are instrumental in upholding human rights in the processes of investigation and prosecution – upholding the rule of law.

The Universal Declaration of Human Rights (UDHR) sets out the fundamental rights with relevance to fair trials. Article 1 of the UDHR begins “All human beings are born free and equal in dignity and rights.” It is an issue of dignity for all that fundamental human rights are observed and respected. Failure to do so insults the dignity of those who are subjected to such treatment – which in turn reflects badly on those who would deny these rights to those inherently entitled to them. Other relevant articles are Article 3: Right to life, liberty and personal security; Article 5: Against torture – further emboldened by the CAT of 1987; Article 6: Dignity before the law; Article 9: Protection from arbitrary arrest, detention or exile; and Article 11: Presumption of Innocence – this underlines the basis for a fair trial. The other rights detailed in the UDHR are in themselves very relevant to what may be subject to investigation and potential prosecution – but these represent those that directly inform due process.

The issue of a person arrested/detained in relation to an alleged criminal offence generally begins when that person is apprehended by the police or prosecuting authority. At this stage, in order that the detained person is clear about the situation, it is considered good practice and to be in support of human rights such as those contained in Articles 7, 8, 9 and 10 of the UDHR that the person is informed firstly about whether he/she is subject to arrest or not (or is merely being requested to assist with an investigation), and consequently what the allegation that has been made is.

Detainees are entitled to legal representation by experts to act on their behalf – and they will be informed of this. If the detainee cannot pay for representation, then the state will often assist in ensuring that it is available if the detainee wants.

Habeas Corpus – Detention must be according to law and must satisfy legal requirements. There may be a presumption in favour of release. An accused person (or legal rep) should be given a copy in writing of any charge as a matter of good practice. It’s important to know the specific allegation. Provision should be made for the detainee/defendant to have access to relevant material and the means to act upon it.

An accused person will rarely have the powers or resources to conduct an independent investigation for the defence case – the state is in a position to conduct a full investigation of all the evidence to make an informed and professional decision on prosecution. All material, including material that may undermine the prosecution and assist the accused should be disclosed to the defence. The process should be professional. There should be no potential conflict of interest – Police/Prosecutor or Judges. Such would potentially corrupt the process and undermine justice.

Detention goes against the right to liberty and there must be a good reason for the law to abrogate this right. Court must be satisfied that the reasons suggested to it are well founded. Judicial Review - capacity to clarify or question judicial findings (and thereby confirm or overturn them) is critical.

Laws and processes should be published, available to all citizens and if necessary conducted on behalf of persons by practitioners on behalf of clients. There should be full access to justice for those who require resolution of disputes, or defence from allegations of crime (or for victims/witnesses to informatively report criminal conduct).

Justice – both the process and delivery should not be arbitrary or random. Interpretation of should be clear and unambiguous leaving no room for doubt if possible. Decision making must therefore be consistent and not vague so that the integrity of its application is in doubt - this would undermine faith in the law, and fuel suspicion of discrimination/corruption. The

standards to which those who work in justice are to be held should be transparent and accessible.

Failure to meet the standards should be met with professional sanction (or possibly criminal!). To encourage redress to those who suffer from lack of diligent care by professional legal officers (including questionable investigations/prosecutions). Those with duties are to be seen to be accountable for their performance and execution of their functions.

D.2. Witness and Victim Protection as an essential element of the implementation of international human rights norms in within the criminal justice structure



This subject was presented by Ms. Ichinnorov Manjaa, a former chief of the Witness and Victim Protection Department of the Takhar Authority (Marshal Service). Legal guarantees ensure the protection of witnesses and victims of crime as prescribed in Article 19.1 of the Constitution of Mongolia, which states that “The State shall be responsible to the citizens for the creation of economic, social, legal and

other guarantees for ensuring human rights and freedoms, to fight against violation of human rights and freedoms and to ensure restoration of infringed rights”. The International Covenant on Civil and Political Rights obligates states parties to ensure that any person whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the General Assembly Resolution 40/34 in 1985 recommends Governments to render direct aid designed to help curtail victimization and alleviate the plight of victims.

In criminal justice practice, witnesses and victims of crime face intimidation, aggression, bribing, coercion, and threats to their well-being. The consequences of these adverse experiences can be that witnesses are reluctant to testify or do not to testify at all. They may sometimes provide false testimony, end up with mental illnesses, or even attempt to commit suicide. Thus, there is a greater need to develop a system that provides safety and protection for witnesses and victims of crime during criminal proceedings.

Law enforcement agencies did not provide protection for victims and witnesses due to shortcomings in legislation, in budgetary means and other structure and mechanisms. It is estimated that when there are on average at least three witnesses and one victim in one criminal case, there are in Mongolia at least 5432 victims and 16296 witnesses. It can be deduced from this that number of victims of crimes exposed to serious danger amount up to 1199 and witnesses 3597. This number was used to create the Takhar Authority (Marshal Service) in 2014 based on the Witness and Victim Protection Law from July 2013.

Subject to protection under this law were witnesses and victims; people in close relation with witness and victims and persons who are not witnesses or victims, but who help and provide valuable information for resolving the crime. The law identified five organizations: the police;

an investigative agency (planned as similar to the FBI); an anti-corruption agency; an intelligence agency; and a marshal service. With the exception of the Marshal Authority, all other agencies responsible for contributing to witness and victim protection failed to implement this law. The Marshal Authority's Witness and Victim Protection Department created a Security Protection Unit with special professional team and started providing assistance (including safety, legal, medical and psychological) to victims and witnesses. Unfortunately, this agency was dissolved, and the witness and victim protection unit transferred to the Central Police Department in 2016.

There is no awareness on the Witness and Victim Protection Law and no training has been provided for legal professionals tasked to use this law. The law provides 9 types of protection for witnesses and victims: precautionary notice; restraining certain activities; physical protection (guard); provide secrecy information security; supply a security weapons; placemen in temporary safe housing; removal to a different location; change of personal identity and change of image. Safe housing must be provided in places protected by the police, by military units, in NGO shelter homes, or provided by local authorities. Unfortunately, due to lack of knowing, understanding and using this law, these measures are hardly being used by the relevant authorities.

Any witness or victim can face security risk as soon as testimony begins. However, there is a lack of infrastructure, means, and necessary budget to provide police protection for witnesses and victims. This issue needs to be brought up to the attention of policy makers and should be solved soonest.

The development of the police's capacity to deal with witness and victim is a crucial necessity now. Police personnel need to be trained to be sensitive and respectful during the interrogation of victims and witnesses due to their psychological situation and potential risks they face during investigation of crime.

The agencies responsible for implementing the duties to protect witnesses and victims according to the Law on Witness and Victim Protection should be provided with the necessary resources and workforce and develop an effective inter-agency cooperation to ensure protection for witnesses and victims.

Special elite squad Task Forces should be established in police and the prosecutor's offices to deal specifically with domestic violence and other sexual abuse cases. A national programme on witness and victim protection should be established and endowed with sufficient budget to carry out the plan.

D.3. The Implementation of CAT and other relevant International Human Rights Treaties in the administration of the criminal justice



Mr. Bolorsaikhan, Chairperson of Mongolia Amnesty International presented the topic "The Implementation of CAT and other relevant International Human Rights Treaties in the administration of the criminal justice".

A 2008 UNDP-funded expert evaluation of the conformity of Mongolian laws and regulations with international

human rights treaties and conventions carried out by NLI and the NHRCM (Government of Mongolia, Achieving the Millennium Development Goals Fifth National Progress Report, 153 p.p.) revealed that UN-ICESCR- received 3 points (1-not satisfied, 5 –very satisfied), UN-ICCPR- 3.7 points, UN CAT- 3.2 points, UN-CERD- 4 points and UN CRC- 3 points.

Mr. Bolorsaikhan noted that one of steps backward in complying with international human rights standards in the implementation of criminal justice was the dissolution of the Takhar Authority, the agency responsible for providing protection for victims and witnesses. Authorities claim that they lack the necessary resources to maintain this agency. However, Mr. Bolorsaikhan asserted that with a proper mind-set one can always find resources to maintain such an important human rights structure. This agency must be re-established. The Special Investigation Unit (SIU), an independent agency under the State General Prosecutor's Office must also be re-established. This agency is crucial for preventing further human rights violations and criminal acts committed by police and prosecutors.

Without replacing the old mind-set of coercion for one focussed on justice, the criminal justice system cannot be reformed, and human rights will not be protected properly. The rights application of International Human Rights Instruments in the judiciary is one of the major obstacles hindering the development of human rights in Mongolia. Judge can use the international conventions in taking their decisions, but these international conventions are only considered official if they are officially published in the State Bulletin. A National Preventive Mechanism as foreseen by the UN-OPCAT and the right to remedy and compensation for torture are unfortunately not available.

E. PANEL 4 "VIOLENCE AGAINST WOMEN AND CHILDREN: CRIMINAL JUSTICE REFORM"

E.1. Prevention, investigation, prosecution and protection of gender-based violence cases including domestic violence



Capitan D. Budzaan, Chief of the Child Crime Division of the Crime Prevention Unit of the Central Police Department presented this topic. According to police data, out of 455.000 police emergency calls, 31.000 were related to domestic violence and disturbance. Out of these 31.000 domestic violence calls, 5807 cases were made

case evaluation.

The police provide a help sheet for victims that gives information concerning the laws and regulations which protect their rights. From practice, one can conclude that more awareness and education on violence against women and children among the citizens and the state needs to be generated. A policy needs to be introduced that foments a conducive legal culture and education in school system in the combat against violence against women and children.

More specifically, practice shows that more awareness and training on Domestic Violence law and the Witness and Victim Protection law is critically needed. The police activities in the combat against domestic violence cases are gaining strength as a result of reforms introduced

in domestic violence legislation and enhanced public awareness. An increased number of victims approach the police which underscore the need to strengthen the mechanism of victim protection and to render effective services for them.

The state should focus more on preventive measures by reforming and strengthening the education system with the help of civil society and other educational institutions.

Mrs. Enkhjargal, General Coordinator of MonFemNet network NGO's added that even for the short period of time, many good changes can be seen in the country. For example, the number of victims who die in the hands of their loved ones has decreased. Moreover, it is a major positive development that domestic violence is classified as a crime and that crimes against children constitute a special chapter in the Criminal Code.

E.2. Prevention, Investigation, prosecution of crimes against children



Mrs. B. Javjankhuu, Director of Child Rights Training and Research Institute NGO elaborated on the Prevention, Investigation, prosecution of crimes against children, based on her own research and practice.

She stressed the major challenges and obstacles faced by child victims and witnesses of crime. The police put pressure on child victims and

witnesses at significant personal cost for the children and resulting in significant damage to proof.

Most child victims and witnesses withdraw their claims and wish to cancel the investigation due to psychosocial distress and insensitive treatment they receive from authorities and legal processes. Authorities and the suspects pressurize child victims into reconciliation with their perpetrators. Trial and investigation processes create an environment that separates the child victims from their families.

The lack of skills and attitude needed to protect the victims as well as the regular absence of child rights experts and teachers in the legal process demand a heavy toll on children in criminal practice. Protection of the right to privacy is violated and, in many cases, the identities of child sexual crime victims are revealed through social media and the press.

Legal authorities in Mongolia demonstrate significant mental reluctance and vast knowledge gap in dealing with juvenile delinquency. Research shows that 80 percent of the juvenile delinquents suffer from psychological distress and nightmares prior to the hearing of their cases; 70 percent experience thoughts of suicide, 15 percent have made suicide attempts; 10 percent experienced psychosocial shock in the Gants Khudag detention Centre. Authorities neglect the outcome of the case and there is insufficient cooperation between police and child rights organizations.

Local governments and governors do not comply with their duties assigned to them by law. Juvenile delinquents and their parents have few organizations and individuals to go to for

assistance. The state should encourage and support individuals and organizations that provide assistance to these children. There is an urgent need to improve awareness and bring about a juvenile justice culture focussed on restorative justice, reconciliation and rehabilitation.

Mongolia needs to bring its child protection system in line with international child protection standards and to strengthen national mechanism for child protection. Inter-agency coordination, cooperation and collaboration for child protection need to be strengthened. Investments need to be made for the prevention of family-based violence. One recommendation is to establish a full-fledged youth court system. Moreover, vulnerable families should receive guidance and support to help them overcome poverty. Alternatives for sending family members to prison as well as after-care programmes for juveniles should be set up. Police personnel and prosecution should be trained to deal with family violence and the re-establishment of the marshal system should be considered.

The Child Rights Law and the Child Protection Law need to be used in conjunction with the Domestic Violence law, Witness and Victim Protection Law, Law on Infringement, Criminal Law, Law on Education and Health law and others in an effort to cement an juvenile justice system centred on prevention, investigation, protection, restoration, and responsibility.

E.3. International juvenile justice standards



Mrs. Maartje Berger, Juvenile Justice expert from the Netherlands contributed this topic tapping her international experiences and in-depth knowledge of the issue.

The UN Convention on the Rights of the Child (CRC) ensures that children have a special legal position. In 1990, Mongolia was one of the first countries to ratify the Convention on the Rights

of the Child. Starting the implementation of the CRC a separate section in the Criminal Procedure Law was introduced and a juvenile prison is in place. However, many issues regarding the violation of children's rights still exist in Mongolia. For instance, children in conflict with the law are often treated the same way as adults and are often victims of police violence. Children face a lack of alternatives for detention and reintegration programmes. Also, children with parents in prison are very vulnerable. Children suffer from exploitation and violence as child jockeys and as victims of trafficking.

In Mongolia, there is an urgent need for a full-fledged, comprehensive juvenile system for children in conflict with the law. In order to build such comprehensive juvenile justice system, Mongolia confronts the challenge to implement standards and norms of art 37 and 40 CRC, taking into account the general principles 2, 3, 6, and 12 CRC. More specified details explaining art 37 and 40 CRC are set out in:

- Beijing Rules (UN standard minimum Rules for the administration of juvenile justice)
- Havana Rules (UN Rules for the protection of juveniles deprived of their liberty)
- General Comment No. 10 – Children's rights in juvenile justice (2007)

Mongolia can take note of the European Union framework for member States on how to implement children's rights in juvenile justice. Relevant are, in particular the new EU Directive 2016/800 of the European Parliament and of the Council on procedural safeguards for children who are suspects or accused persons in criminal proceedings. This is a legislative act that sets out a goal that all EU countries must achieve. Furthermore, inspiration can be drawn from the EU Guidelines on Child Friendly Justice (2010) of the Committee of ministers of the Council of Europe (See: <https://rm.coe.int/168045f5a9>). These guidelines set out basic rules for European states to follow when adapting their justice systems to the specific needs of children.

Criminal justice stakeholders in Mongolia may also want to invest in exchanging knowledge about good practises in other countries. Examples of such good practises that can be of utmost relevance to the Mongolian practice are the specialised child friendly youth justice institutions in Spain (See <https://www.youtube.com/watch?v=MEXfFjjoDyE>). Moreover, the criminal justice systems in Belgium, Northern Ireland, Argentina offer insight into how a sound legal basis for restorative justice in juvenile justice laws could be constructed.

In light of the absence of a comprehensive juvenile justice system, the government of Mongolia is recommended to intensify its efforts to give effect to the recent Concluding Observations the Committee of the Rights of the Child and the Committee Against Torture (CAT). In these efforts, it is of paramount importance to continue the dialogue on child friendly justice and involve young people in this process. Moreover, Mongolia will need to implement special juvenile justice laws, procedures and institutions. Staff specialized in juvenile justice is urgently needed and training facilities shall be set up to provide such training. In designing and operating a juvenile justice system, special attention shall be paid to the rights of minorities such as the Khazakhs and the Tsaatans.

In view of the importance of the Concluding Observations, it shall be noted that the United Nations Committee on the Rights of the Child noted in 2017 that a comprehensive framework on the administration of juvenile justice (child tailored options) should be established; Specialised children's judges are to be introduced; Special rules for youth prison management in line with CRC shall introduced; independent (free) legal aid for juveniles should be ensured; Investments should be made in diversion, probation, resocialisation, alternatives for detention, education and life skills training; The duration of (pre-trial) detention of juveniles should be limited and only used as a last resort for the shortest possible time; Children should not be held in the same detention and prison cells as adults and have access to education and health services.

In its September 2016 report (CAT/C/MNG/2), the United Nation Committee against Torture urged Mongolia to follow up on the CRC Committee's recommendations and further added that a training programme for judges and prosecutors to specialize in juvenile justice should be set up. It recommended Mongolia to incorporate non-custodial measures for minors in conflict with the law and to secure regular independent reviews of the juveniles' conditions of detention.

III. KEY CONCLUSIONS AND RECOMMENDATIONS

It was found that overarching human rights principles with relevance for criminal justice such as the right to equality before the court; the protection of an individual's integrity; judicial independence; and the rights to a fair trial, are now more firmly anchored in Mongolia's Criminal Procedure Code have the potential to better protect the legitimate rights of all parties in criminal proceedings.

The implementation of the Criminal Code faces enormous challenges in practice such as the lack of coherent knowledge and training on how to understand the new legal changes and effectively apply them in practice, principally due to a persistently rigid mentality; a lack of ethical standards; and the use of old approaches by the investigators, prosecutors and the judges in their respective lines of duties.

It was discussed that an improvement in the criminal justice practice now is that the new Criminal Procedure Code obligates investigators to pay significant attention to investigation methods and tactics in addition to interrogation which was deemed sufficient previously, thus averting many of the human rights violations resulting from penal measures based on interrogation only.

A critical improvement in the new Criminal Procedure Code is the principle that no case can be suspended, and thus drag on endlessly, thus ensuring that a criminal case now shall be investigated until a suspect is identified.

Another significant improvement in the Criminal Procedure Code is an important regulation stipulating that evidence obtained through secret investigative operation can only be accepted in court if such operations were undertaken on the basis of permission from a Prosecutor.

Participants and panellists agreed that the police, prosecutors and judges face many challenges in the implementation of the new Criminal Procedure Code in practice as its swift adoption and entry into force stands in the way of proper preparation, training of the professionals and the creation of public awareness.

It was found of critical importance for prosecutors to appreciate what the challenges to accomplishing a fair trial are and to link the ethical and the universal rights that apply to the concepts of fairness applied to the Prosecution's functions concerning investigation and prosecution of allegations of crime.

It was found that accused person rarely have the powers or resources to conduct an independent investigation for the defence case, and that the state is advised to conduct a full investigation of all the evidence to make an informed and professional decision on prosecution whereby no potential conflict of interest – Police/Prosecutor or Judges should be allowed as such would potentially corrupt the process and undermine justice.

The Government of Mongolia and all other criminal justice stakeholders in Mongolia are advised to more effectively make use of the United Nations human rights treaty body reporting procedures to accelerate progress in its criminal justice reform efforts.

The Government of Mongolia is advised to speed up efforts to ensure implementation of international human rights norms and standards pertaining to criminal justice and their incorporation into domestic legislation.

The Government of Mongolia is advised to address the root causes underlying the call for the death penalty and to take serious notice of everybody's right to life and the manifest global tendency to abolish the death penalty in the ongoing discussions of the reintroduction of the death penalty.

It is advised that criminal justice stakeholders in Mongolia interpret the criminal (procedure) codes in a clear, consistent and unambiguous fashion as this strengthens faith in the law and takes away suspicion of discrimination/corruption.

It is advised that the agencies responsible for implementing the duties to protect witnesses and victims according to the Law on Witness and Victim Protection are provided with the necessary resources and workforce and develop an effective inter-agency cooperation to ensure protection for witnesses and victims.

The Government of Mongolia is advised to create a Special Elite Squad Task Forces in police and the prosecutor's offices to deal specifically with domestic violence and other sexual abuse cases.

The Government of Mongolia is advised to establish a national programme on witness and victim protection and endowed it with sufficient budget to carry out the programme.

The Government of Mongolia should seek to raise more awareness and to train more professionals on Domestic Violence law while at the same time focus more on preventive measures by reforming and strengthening the education system with the help of civil society and other educational institutions.

It is advised that formal criminal justice stakeholders in Mongolia support individuals and organizations that provide assistance to children in conflict with the law and improve awareness and bring about a juvenile justice culture focussed on restorative justice, reconciliation and rehabilitation.

It was found that in Mongolia, there is an urgent need for a full-fledged, comprehensive juvenile system for children in conflict with the law, to bring the child protection system in line with international child protection standards; and to strengthen national mechanism for child protection.

The government of Mongolia is recommended, in light of the absence of a comprehensive juvenile justice system, to intensify its efforts to give effect to the recent Concluding Observations the Committee of the Rights of the Child and the Committee Against Torture (CAT).

IV. NAME AND TITLE OF MODERATORS AND PRESENTERS

Panel 1 “ADVANCES AND CHALLENGES IN IMPLEMENTING THE CRIMINAL CODE IN LINE WITH HUMAN RIGHTS PRINCIPLES AND RULE OF LAW STANDARDS”

Moderator- Dr. Erdenebat, Deputy Prosecutor of the General Prosecutor’s Office

Panellists:

- Dr. Ouybold, Prosecutor, General Prosecutor’s Office
Panel topic: “Reforms, major changes and challenges in the classification of crimes and reforms of other legislations to be incorporated critical to the new Criminal Code”
- Dr. D. Bayarsaikhan, Professor, National University Law School
Panel topic: “Crime Penalties and Human Rights: Criminal Justice Reform issues”

Panel 2 “THE KEY REFORM ISSUES OF THE CRIMINAL PROCEDURE CODE AND MAJOR HUMAN RIGHTS CHALLENGES”

Moderator - Mr. S. Bayasgalan, the State Secretary of the Ministry of Justice and Home Affairs

Panellists:

- Mr. Bat-Orshikh, Assistant Prosecutor to the General Prosecutor of Mongolia, Head of Crime Registration and Monitoring Center
Panel topic: “Changes and Reforms in the Criminal Procedure Code”
- Dr. D. Batzorig, Head of Administrative Unit, Financial Regulatory Committee
Panel topic: “Major Challenges in the Implementation of Human Rights in the criminal justice structure in Mongolia”

Panel 3 “INTERNATIONAL HUMAN RIGHTS LAW AND CRIMINAL JUSTICE”

Moderator- Mr. Baymbadorj, Chief Commissioner, Human Rights Commission of Mongolia

Panellists:

Mr. Francis Davis (UK), Independent Criminal Justice expert / Prosecution Advisor

Panel topic: “International Human Rights norms in the investigation and prosecution of crimes and the exercise of fair trial”

- Mrs. Ichinnorov Manjaa, Human Rights Expert, PSF Support to the EU Mongolia Human Rights Dialogue; Human Rights, Democracy and Governance Project
Panel topic: “Witness and Victim Protection as an essential element of the implementation of international human rights norms”
- Mr. Bolorsaikhan, Chairperson, Amnesty International, Mongolia
Panel topic: “The Implementation of CAT and other relevant International Human Rights Treaties in the administration of the criminal justice”

Panel 4 “VIOLENCE AGAINST WOMEN AND CHILDREN AND CRIMINAL JUSTICE REFORM”

Moderator- Mrs D. Enkhjargal, General Coordinator, Monfemnet National Network of NGOs

Panellists:

- Capitan D. Budzaan, Chief of Child Crime Unit of the Crime Prevention Division, General Police Department
Panel topic: “Prevention, investigation, prosecution and protection of gender-based violence cases including domestic violence”
- B. Javjankhuu, Head, Children’s rights Center, child rights advocate.
Panel topic: “Prevention, Investigation, prosecution of crimes against children”
- Maartje Berger (Netherlands) International expert of Juvenile Justice
Panel topic: “International juvenile justice standards”

V. ORGANISATIONAL LESSONS LEARNED

1. Need to use more than one interpreter, usually two, as to adequately allow for effective interpretation
2. Make sure that the EU logo is available on the agenda and papers distributed at the meeting. Sufficient EU visibility should be also ensured in the room and in all project activities.
3. Provide a list of registered participants in the Conference folder
4. Provide speakers and panellists with a short concept note with issues to be debated in order to better steer the discussions during the panels
5. Request speakers to send their interventions early enough to make them available to participants and interpreters before the conference
6. Provide clearer guidance to the presenters and panellist so as to enable the compilation of a concise and coherent set of conclusions and recommendations.
7. Facilitate the organization of a press conference or press point not only before but also after the event.

ANNEXES

ANNEX 1 – List of participants

#	Name	Organization
1.	B.Davaasuren	The State Secretary of Foreign Affairs
2.	G.Baysgalan	The State Secretary of the Ministry of Justice and Home Affairs
3.	G.Erdenebat	Deputy Prosecutor of the General Prosecutor of Mongolia
4.	Dr. Ouynbold,	Prosecutor, General Prosecutor's Office
5.	Dr. D. Bayarsaikhan	Professor, National University Law School
6.	Mr. Bat-Orshikh	Assistant Prosecutor to the General Prosecutor of Mongolia, Head of Crime Registration and Monitoring Center
7.	Dr. D. Batzorig,	Head of Administrative Unit, Financial Regulatory Committee
8.	Mr. Baymbadorj,	Chief Commissioner, Human Rights Commission of Mongolia
9.	Mrs. Ichinnorov Manjaa	Human Rights Expert, PSF Support to the EU Mongolia Human Rights
10.	Mr. Bolorsaikhan	Chairperson, Amnesty International, Mongolia
11.	Mrs D. Enkhjargal,	General Coordinator, Monfemnet National Network of NGOs
12.	Mr. Arslankhuyag Gankhuag	Head of Crime Prevention Division, General Police Department
13.	Mrs. Javjankhuu	Head, Children's rights Center , child rights advocate
14.	Mrs. Maartje (Netherlands)	International expert of Juvenile Justice
15.	Mr. B. Enkhbayar	Deputy Minister of Ministry of Justice and Home Affairs
16.	Henk Hulshof	Team Leader, PSF Support to the EU Mongolia Human Rights Dialogue
17.	P.Sainzorig	Head, Legal Policy Department
18.	L.Munkhtsetseg	Senior specialist of Legal Policy Department
19.	Ya, Javkhlan	Senior specialist of Legal Policy Department
20.	D. Saruul	Senior specialist of Legal Policy Department
21.	B.Gantuya	Senior specialist of Legal Policy Department
22.	Ch. Narantuya	Senior specialist of Contract, Legal and Cooperation Department
23.	D.Gantuya	Senior specialist of Contract, Legal and Cooperation Department
24.	G. Sarnai	Senior specialist of Contract, Legal and Cooperation Department
25.	E.Sergelen	Criminal Police Department, Economic Crime Division

#	Name	Organization
26.	D. Munkhzul	Criminal Police Department, Economic Crime Division
27.	Kh. Mandah	Special Crime Investigation
28.	L. Erkhzaya	Special Crime Investigation
29.	B. Batzorig	Crime Prevention Division
30.	D. Budzaan	Crime Prevention Division
31.	Yu. Ochirbud	Crime Registration Division
32.	D. Bayarsuren	Crime Registration Division, City Policy Department
33.	N. Baysgalanbat	Special Crime Division,
34.	T. Chinbat	Theft Investigation Division
35.	D.Sandag	Senior Officer of Legal Department
36.	L.Choindontsamts	Senior Specialist of Legal Department
37.	Z.Ariunbayar	Senior Specialist of Community and Physiology Department
38.	Ts.Ganchimeg	Senior Specialist of Community and Physiology Department
39.	Sh. Baigalmaa	Senior Specialist of Professional Administration
40.	Ts. Gantulga	Vice Director
41.	G. Dagiymaa	Head, Forensic Medicine Department
42.	B. Enkh-Amgalan	Head, Monitoring and Evaluation Department
43.	G. Khaliunaa	Researcher, National Legal Institute
44.	M.Ochirbat	Researcher, National Legal Institute
45.	D. Erdenebaatar	Vice Director, Law Enforcement University
46.	L. Bat-Ochir	Lecturer, Law Enforcement University
47.	B. Khishigtogtokh	Lecturer , Law Enforcement University
48.	P. Erdenebaatar	Lecturer Law Enforcement University
49.	B. Menkhzaya	Lecturer , Law Enforcement University
50.	T. Azzhargal	Lecturer Law Enforcement University
51.	T. Esekhubayar	Mongolian Lawyers Association
52.	L. Danzannorov	Mongolian Lawyers Association
53.	K. Bauirzhan	Mongolian Lawyers Association
54.	G. Naranbaatar	Mongolian Lawyers Association
55.	P. Narantuyaa	Mongolian Lawyers Association
56.	Banzragchiyn Ganbaatar	Head, Mongolian Attorneys Association
57.	Zhugdetnamzhilin Batzorigt	Executive Director, Mongolian Attorneys Association
58.	Dorzhsurengiin Batsukh	Mongolian Attorneys Association
59.	Myakhansambuugiin Altan-Elziy	Mongolian Attorneys Association
60.	O. Batsukh	Mongolian Attorneys Association

#	Name	Organization
61.	J. Ariunaa	Cheif Prosecutor, Khan-Uul District
62.	Ts. Batbold	Cheif Prosecutor, Bayanzurkh District
63.	D.Bulgantsetseg	Cheif Prosecutor, Chingiltei District
64.	G.Bat-Ochir	Cheif Prosecutor, Sukhbaatar District
65.	N. Enkhtuya	Cheif Prosecutor, Bayangol District
66.	D. Otgonbayar	Cheif Prosecutor, Songinokhairkhan District
67.	D. Bayarmagnai	Cheif Prosecutor, City Prosecutor office
68.	U. Sodnomtsog	Cheif Prosecutor, Transportation Prosecutor Office
69.	O.Altangerel	Monitoring on Crime Registration and Investigation Division
70.	M.Oyundelger	Head, Monitoring and Evaluation Division
71.	M.Gantulga	Head, Training and Research Center
72.	U.Erdenetuya	Head, Foreign Relations Division
73.	P. Tseveen	National Child Rights Center
74.	O.Selenge	Union of Mongolian Students
75.	N.Uuganbayar	National Networking of Children's Participations Organization
76.	G. Oinbayar	Big Family orphanage center
77.	Kh. Baavgai	Big Family orphanage center
78.	B. Munkhjargal	Union of School Social Workers
79.	S.Dondov	Human Rights Help Center for People
80.	M.Tsaschiher	Men-Healthy Family Center
81.	B.Suvd	National Center against Violence
82.	N.Arvinaria	National Center against Violence
83.	D.Sanchir	National Center against Violence
84.	Ms. Hana Bvodska	Embassy of the Czech Republic
85.	Reka Dr. Domonkos-Gyunge	Deputy Head of Mission, Embassy of Hungary
86.	Elisabeth Barsacq	Ambassador of France
87.	Zuzana Jankechova	IOM
88.	Any Kurta	German Embassy
89.	Heidi Hershede	US Embassy
90.	Shawn Fast	US Embassy
91.	Khorolsuren Magvan	US Embassy
92.	Ts. Zorig	General Judge of State general Court
93.	O.Altangerel	Attorney
94.	D.Orosoo	Advisor, Democratic Party
95.	B. Khishigaikhan	Open Society Forum
96.	J.Oyuntungalag	Chief Judge, Capital City Criminal Court
97.	Sh.Baterdene	Chief Judge, Capital City Civic Court
98.	D.Bayarsaikhan	Head, Administration Unit of Capital City Court
99.	O.Altansukh	Head, Child and Family Development Centre
100.	B.Batbayar	Attorney
101.	B.Bathuyag	Head of Legal Department of Democratic Party
102.	J.Batzandan	Member of Parliament

#	Name	Organization
103.	Ts. Zorig	Chief Judge of State general Court Council
104.	O.Altangerel	Attorney
105.	D.Orosoo	Advisor, Democratic Party Causus, The Parliament of Mongolia
106.	B. Khishigsaikhan	Open Society Forum
107.	Sh. Otgonbayar	Student of MNU



Ulaanbaatar 15/01/2018 - 06:34 Press releases

EU and Mongolia cooperate on criminal justice reform

On 16 January, the European Union and the Government of Mongolia will jointly host a national conference, part of a project financed by the European Union's Partnership Instrument, on the implementation of human rights in the country's criminal justice system.

Strengthening the rule of law in Mongolia is one of the priorities of the newly established European Union Delegation under the 2016-2020 EU Human Rights and Democracy Country Strategy for Mongolia. In this context, the EU and its Mongolian partners selected the implementation of the recently adopted criminal code and criminal procedure code in line with human rights standards as an area for further EU cooperation and support.

The State Secretary of the Ministry of Foreign Affairs of Mongolia, Mr. Davaasuren, will open the conference which will bring together national stakeholders such as representatives from the General Prosecutor's Office, Ministry of Justice and Human Rights Commission of Mongolia. National and European experts will present reflections and recommendations on the furtherance of international human rights standards as the country seeks to reform its criminal justice system.

While the entry into force of the criminal and criminal procedure code in July 2017 provides a window of opportunity to protect human rights and strengthen the rule of law, many challenges remain for its implementation. "This conference presents an excellent opportunity to accelerate criminal justice reform through an open debate not only on legislative amendments, but also on the wider policy environment in which these changes need to be implemented," says EU's Chargé d'Affaires a.i., Mr. Marco Ferri.

The participants to the conference will first be discussing critical criminal justice reform issues such as challenges in the classification of crimes as well reforms of criminal penalties, sanctions and alternatives. The relevance of human rights in criminal investigations and reforms of the law enforcement law will be on the agenda in the second session. The third

session will highlight international human rights norms in prosecution, in fair trials, as well as in witness and victim protection. The final session addresses how criminal justice reforms should respond to gender-based violence and the more specific juvenile justice issues.

A concise report including the principal conclusions and recommendations of the conference will not only serve to raise awareness on advances and challenges in Mongolia's efforts to bring its criminal justice system in line with international human rights norms and standards, but also to nurture and underpin the ongoing human rights dialogue between the Government of Mongolia and the European Union.

In addition to supporting this first in a series of three human rights conferences, the EU contributes to this objective by making relevant international human rights conventions accessible in the Mongolian language. "But these are not stand-alone conferences," Mr. Ferri adds. "The EU will also support two expert-level regulatory dialogue visits in the EU by staff from the Prosecutors' General office of Mongolia.

These visits aim at strengthening their capacity to implement the Criminal Code and the Criminal Procedure Code in line with international criminal justice standards." European experts will subsequently train staff of the Training and Research Centre (TRC) of the Prosecutor General's Office to conceptualise and implement specific training programmes regarding international human rights standards, pre-service and in-service training for prosecutors in line with the provisions of the new Criminal Code.

Source URL: http://eueuropaeas.fpfis.slb.ec.europa.eu:8084/delegations/china/38216/eu-and-mongolia-cooperate-criminal-justice-reform_en

3) Biographies of EU experts

Ms Maartje Berger (Netherlands), Juvenile Justice expert, Defence for Children

Maartje Berger (LLM) is member of the European Council of Juvenile Justice and senior legal Advisor Children Rights and Child Protection at Defence for Children – The Netherlands. She is working as an international expert in the field of juvenile justice, deprivation of liberty, youth law and the implementation of children's rights. Since August 2017 she is a registered mediator and started to work as a mediator in penal cases, aiming to develop special training and practical knowledge concerning youth cases. As a trainer on children's rights and juvenile justice she has trained many stakeholders such as youth lawyers, probation officers, care takers and also students.

At the national and international level Maartje Berger takes part in a dialogue on due process, alternatives to police custody, pre-trial detention and other forms of deprivation liberty. As a legal advisor at Defence for Children she has participated in several national and European projects such as:

- "My lawyer, my rights" project funded by the EU Justice Programme (2014-2020)
- "Juvenile Offender Detention Alternatives" project funded by the EU Criminal Justice Programme (2015)

- Daphne III (2009-2010) project “Ending Violence against children in custody” followed by the publication “Speaking Freely”
- A research report followed by a national project with youth lawyers advising the Dutch ministry of Justice on minors in police custody and children’s rights.

Three examples of publications of Maartje Berger concerning young offenders are:

- *“Violence against children in conflict with the law. A Study on Indicators and data collection in Belgium, England and Wales, France and the Netherlands (2008)”*
- *“Spending a ‘couple of nights’ in a police cell. The UN Convention on the Rights of the Child and custody in police cells”*
- *Young adult offenders’ rights and restorative justice. Eurovista: Probation and community Justice, vol 4.2. (co-author: Annemieke Wolthuis)*

Defence for Children is an independent non-governmental organisation that has been promoting and protecting the rights of children for over 30 years. On a regional, national and local level, DCI is active through its national sections and associate members in 45 countries around the world, working on issues such as child abuse and sexual exploitation, youth care, juvenile justice and migration law.

Mr. Francis Davis (UK), Independent Criminal Justice expert / Prosecution Advisor

Mr. Francis Davis has 30 years + experience in the Justice System, the last ten years assisting Rule of Law development in fragile/post conflict states. Particular experience has been gained in Afghanistan working with the Attorney Generals’ Office, Supreme Court, Ministry of Interior and Ministry of Justice with particular reference to ethics and professional standards and specialist casework, specifically counter terrorism. He has worked on capacity building projects with police, prosecutors, the judiciary and prison authorities in Somaliland and Sierra Leone, and with Financial Crime Authorities in Kenya. He is currently reviewing Crimes against Humanity allegations against British Forces with the Ministry of Defence reviewing allegations of war crimes, including; unlawful killing, torture and outrages upon personal dignity.

WORK EXPERIENCE

Specialist Prosecutor – Oct 2015 to Present, UK Ministry of Defence, Services Prosecution Authority based at RAF Northolt, Middlesex UK.

Part of a specialist team providing advice to investigations of potential war crimes and crimes against humanity allegations, including allegations of unlawful killing, torture and outrages upon personal dignity, conducting review of the most serious cases. Then to advise on the decision to prosecute for an offence or discontinue the process in accordance with the evidence and applicable law.

Senior International Adviser – Mar to Oct 2015, International Development Law Organisation (IDLO) in Kabul, Afghanistan.

A United States Department of State US (DoS) Rule of Law project in which he had responsibility for managing the establishment of training facilities, resources and capacity to key Afghan law institutions; the Ministry of Justice and the Attorney General’s Office, building in-house capability and sustainability based on institutional self-management and control.

Judicial Training Specialist – Sep 2014 to Mar 2015, Adam Smith International (ASI) in Kabul, Afghanistan.

A UK Foreign and Commonwealth Office project to provide intensive legal training to prosecutors and judges involved in terrorism proceedings and related criminal charges/allegations. Not admitting evidence illegally obtained whether by torture or other prohibited means). All judges and prosecutors engaged in counter terrorism received both basic training and further enhanced training.

Technical Adviser for Investigative and Prosecution Reform – Nov 2013 to Jun 2014, Development Alternatives Incorporated (DAI) in Freetown, Sierra Leone.

Funded by the UK Department for International Development (DfID), he provided professional training to the Sierra Leone Criminal Investigations Department (CID) and the Police Prosecutors' Unit on the standards of investigation of serious crime and advocacy skills respectively. This resulted in drafting comprehensive Reference Manuals for both skill sets, and implementing a "Train the Trainer" course to ensure sustainability and future course development.

Senior Prosecution Adviser/Mentor – Aug 2012 to Oct 2013, United Nations Office for Drugs and Crime (UNODC) in Nairobi, Kenya (based in Hargeysa, Somaliland)

Mentor to the Attorney General for Somaliland, this US DoS backed project established a comprehensive Reference Manual for criminal advocates/prosecutors, and provided intense mentoring for front line prosecutors across the country.

Section Leader/Senior Adviser to Justice Sector Support Program (JSSP) – May 2011 to June 2012, PAE Consultants in Kabul, Afghanistan.

Leading the Attorney General's Office Assistance Section, with responsibility for over 25 international/national staff in the principal US DoS justice support project for Afghanistan.

Anti-Corruption Adviser – Nov 2008 to May 2010, UNODC in Kabul, Afghanistan

As Specialist Advisor in the Rule of Law Section at the UNODC, in a position funded by the Canadian Government, he took the lead in representing the UNODC on corruption issues. This involved close collaboration with the Attorney General in drafting and implementing a Code of Conduct and Professional Standards for Prosecutors and mentoring prosecutors in the Anti-Corruption Team. He also led in developing anti-corruption initiatives for police with senior management in the Ministry of Interior.

This role was as part of a "career break" from the Crown Prosecution Service and the United Kingdom Civil Service.

UK Civil Service – Jul 1986 to May 2011

For 25 years he worked with the Crown Prosecution Service (CPS) as a front-line prosecutor, based in London. He began as an Executive Officer and was promoted to the role of Branch Office Manager for West London. Selected to qualify as a Barrister he joined the professional/legal staff. He left CPS as a Senior Crown Prosecutor in 2011 for international Rule of Law development work, having gained expertise in key areas of legal practise, including; financial crime (including restraint and confiscation of the proceeds of crime), homicide child abuse and serious sexual offences and regulatory crime. The latter was emphasised during a period from Jun 2001 to Jun 2003 when, having moved to the Health and

Safety Executive (HSE) as a Senior Prosecutor. He was a reviewing lawyer on the prosecution case against Railtrack plc, following the major train crash at Ladbroke Grove in Oct 1999. Having worked for CPS Casework Directorate he was also involved in many national cases, involving various constabularies.

Prior to Jul 1986, Mr Davis worked in educational administration with the Business/Technician Education Council from Jul 1984.

EDUCATION/QUALIFICATION

Called to the Bar of England and Wales (Middle Temple). Oct 1991.

Bar Finals. Inns of Court School of Law. 1991.

Post Graduate Diploma in Law. Polytechnic of Central London. 1990.

Post Graduate Diploma in Management Studies. Ealing College of Higher Education. 1990.

BA (Hons) Politics and Political Institutions (II.ii). University of Liverpool. 1983.

Other Qualification: Specialist course in International Humanitarian Law at University College London.

PUBLICATIONS

Code of Conduct & Professional Standards for Prosecutors (Afghanistan) & Commentary (UNODC 2010).

Reference Manual for Prosecutors (Criminal Justice Compendium for Somaliland) (UNODC 2015).