



**NATIONAL HUMAN RIGHTS  
COMMISSION OF MONGOLIA**



**CENTRE FOR HUMAN RIGHTS  
AND DEVELOPMENT**

**THE CRIME OF TRAFFICKING  
OF WOMEN AND CHILDREN IN MONGOLIA:  
THE CURRENT SITUATION**

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## **Foreword**

The rate of trafficking in women and children all over the world has increased and Mongolia has become involved in trafficking in recent years, as evidenced by the Maksim case in which the court found two Mongolian girls had been trafficked to Yugoslavia and forced to engage in prostitution. There has also been an increase in newspaper advertisements on ways to obtain highly paid jobs abroad as well as articles on the trafficking of Mongolian girls abroad.<sup>1</sup>

So there is ultimately a need to define how the law and logistics fit in order to combat and prevent these crimes, to ascertain their frequency and to understand the activities of Government organizations to address them.

It is also necessary to know what information is among the public in relation to trafficking issues, how this information reaches them and what kind of understanding it provides. In particular, whether this information provides the opportunity for the public to prevent incidents of trafficking. Therefore, we have to figure out the ways in which women and children become victims of trafficking and what issues should be given particular attention, including the participation and opportunity for Mongolian government and non-government organisations to fight against this kind of crime.

Thus, this research aims to research these topics, make conclusions and determine future activities. The National Committee of Human Rights and the Center for Human Rights and Development has undertaken this research with the financial support of the United Nations Development Program (UNDP).

## **1. Foreign Situation of Trafficking in Women and Children**

Every year thousands of girls and young women move abroad in order to improve their living conditions. But after migrating, some women become involved in trafficking by way of being deceived, threatened and pressured. These women involuntarily come under someone else's power and have no way to avoid practicing prostitution or other forms of slavery. Most of them lose their liberty, live in conditions of servitude and incur financial debts they will never pay back. As a result they become "factory goods and products" which result in the profit of billions of dollars all over the world for highly organized criminal groups.

Currently there is no combined figure among countries in relation to how many women are involved in such crimes all over the world. The Special Rapporteur of the United Nations High Commissioner for Human Rights (UNHCHR) who is responsible for violation issues against women, made a statement in 2000 that every year four million women are trafficked all over the world. A report of the international organization Global Survival Network says that the United Nations has determined that world criminal syndicates every year make a profit of USD \$7 billion dollars from the trafficking of women across borders.

The Central Intelligence Agency (CIA) has stated that 45-50 000 women and girls are trafficked into the United States every year. The International Organization of Migration has estimated that 500 000 women from independent countries that were a part of the former USSR, are trafficked into Western European countries each year. These countries are called the

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<sup>1</sup> Advisory Councils of Juristic of the Asia Pacific Forum of National Human Rights Institutions  
*Consideration of the issue of trafficking. Background paper* 11-12 November 2002, New Delhi, India, p. 7

newly appeared, largest “mine” for the trafficking of women.<sup>2</sup> Southern parts of Russia and West Siberian frontiers have become outlets for the trafficking of women.

Information on the trafficking of women and girls in China has been available since 1995. Every year thousands of women are trafficked in China. Women and girls from the poor frontier countries are recruited to go to Thailand, Taiwan, Japan, Canada, the USA and England. In addition, women from Vietnam, Laos, Russia and Ukraine are entered into China.<sup>3</sup> It is easy to get information via the Internet about cases of trafficking of women, including that of a Chinese woman who left China to become a model in Italy, but was trafficked to Mongolia and became involved in prostitution.<sup>4</sup>

These facts show that the crime of trafficking is spreading throughout the world. Mongolia’s neighbouring countries are involved in this crime and Mongolia has become a transit place for the trafficking of women from China and Russia. The practice of trafficking women out of Mongolia into other countries has also appeared.

In order to fight this crime, four international treaties were adopted prior to World War II. These were:

- the *International Agreement for the Suppression of the White Slave Traffic* (1904);
- the *International Convention for the Suppression of the White Slave Traffic* (1910);

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<sup>2</sup> IREX International Organization web /2002.11.2/ <http://www.irex.org/programs/anti-trafficking/>

<sup>3</sup> Coalition Against Trafficking of Women - CATW – web /2002.11.2/ <http://www.globalmarch.org/virtual-library/catw/factbook/china.htm>

<sup>4</sup> International Herald Tribunal web against trafficking of women /2002.11.2/ <http://lists.partners-intl.net/pipermail/women-east-west/2000-June/000251.htm/>

- the *International Convention for the Suppression of the Traffic in Women and Children* (1921); and<sup>5</sup>
- the *International Convention for the Suppression of the Traffic in Women of Full Age* (1933).

The last Convention stipulated that regardless of how women become involved in international trafficking (including those recruited without any violation or pressure) it was still considered a crime. These four treaties were brought together by the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949). This convention was confined to the trafficking of women and children.<sup>6</sup>

The United Nations *Convention against Transnational Organized Crime* was adopted at the fifty-fifth session of the General Assembly of the United Nations, 15 December 2000 and was supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This Protocol will become effective after 40 countries have joined; at present, 109 countries have signed and 18 countries have joined.<sup>7</sup> Mongolia has not as yet joined this Protocol.

This Protocol has widened the crime of trafficking compared to previous ones. In accordance with this Protocol anyone who enslaves a person, forces the practice of prostitution, uses organs, places a person in slave-like conditions by way of threat, force, intimidation or deceit, has somebody in one's power, exploits a vulnerability, transports within borders or abroad, migrates, refuges or receives a person will be considered as having committed the crime of trafficking.

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<sup>5</sup> This convention has accepted first that boys could be trafficked besides girls.

<sup>6</sup> Robyn Emerton, *Trafficking of Women into Hong Kong for the purpose of Prostitution: Preliminary Research Findings* Centre for Comparative and Public Law. University of Hong Kong. Occasional Paper No.3, February 2001. pp. 3-5

In addition to these agreements and protocols many agencies of the United Nations carry out activities to stop the crime of trafficking women and children. These include:

- the Beijing Platform for Action on improving conditions for women;
- ILO Convention 182 on the elimination of child labor; and
- the IPEC Program on the elimination of child labor.

Mongolia has joined into these programs and implements the national program.

As Mongolia has joined many international agreements and convention, including the International Covenant on Civil and Political Rights; the International Convention on Economic, Social and Cultural Rights; the Convention Against Torture, the Convention on the Elimination of all forms of Discrimination Against Women, and the Convention on the Rights of the Child, Mongolia has a responsibility to fight against and prevent the crime of women's trafficking. In addition, Mongolia has joined the International Criminal Court, which will be held very soon and will discuss the issue of trafficking of women. This provides some hope for improving activities against this crime all over the world.

## **2. The Crime of Trafficking and Social Conditions in Mongolia**

Since 1990 Mongolian foreign policy has changed a lot. All areas of economy, policy and social relationships became open to many countries all over the world and the travel of Mongolian citizen to foreign countries became free. Mongolians are getting involved in globalization and as a result, many positive and negative phenomena have affected the country's

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<sup>7</sup> UN Department of preventing crimes and controlling drugs Web /2002.10.30/

development. One of the latter is international organized crime, particularly the trafficking of humans.

There are circumstances within Mongolian society today that are suited to the trafficking of humans. These include a direct relationship between negative social phenomena that have arisen as a result of Mongolia's transition period. Conditions such as increased poverty, unemployment, prostitution amongst women, drug use among youth, illegal emigration of citizens abroad, illegal labor of Mongolian citizen in foreign countries (including the manufacturing of false visas and passports), and an increased interest amongst girls and women to marry foreigners, contribute to an environment in which the crime of trafficking can occur. In addition, a lack of knowledge about life abroad and naive attitudes in trusting different kinds of mediators are some of the factors that affect the crime of trafficking.

Generally, citizens of developing countries who are living in poverty are most affected by this kind of crime and become its victims. By the index of development Mongolia is a poorly developed country and the per capita income from GDP per person is less than USD \$500 per year. The Mongolian Government still cannot control the poverty level of its citizens. In 1998, 35.6% of Mongolia's population was found to be poor or extremely poor.<sup>8</sup>

Research conducted into poverty in Mongolia in 2001, found that 50.7% of the population was living in poverty.<sup>9</sup> The researchers concluded that in addition to an increase in poverty, poverty is deepening and has become more severe.<sup>10</sup>

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[http://www.undcp.org/odccp/crime\\_cicp\\_signatures\\_trafficking.htm/](http://www.undcp.org/odccp/crime_cicp_signatures_trafficking.htm/)

<sup>8</sup> Living Standards Measurement Survey, 1998, National Statistics Office (NSO)

<sup>9</sup> Ministry of Social Welfare and Labor, Poverty Assessment 2001

<sup>10</sup> Mongolian Human Development Report, 2000, p 27

People experiencing poverty in Mongolia do so in two ways. Firstly, the lowest salary in Mongolia is 26,000 Tugrug <sup>11</sup> which is only slightly higher than the fixed poverty line.<sup>12</sup> This is not enough even to provide food per person for a month. Secondly, Mongolia faces a deficiency of employment in urban and rural areas. The official numbers of unemployed people which have decreased during the ten years of Mongolia's transition period do not indicate the real number of unemployed people who are able to work.

For these reasons many young Mongolians enter developed countries illegally to do various jobs. There is currently no official figures for the number of Mongolian citizens who work abroad illegally, but anecdotal evidence suggests that about 43000 Mongolian citizens work abroad illegally.<sup>13</sup> This is approximately 5% of Mongolia's labor force. In the main, Mongolians work in countries like South Korea, Germany, the USA and Japan.

Because of a strong interest in illegal entry abroad among Mongolia's population, there has been a spread in various illegal services in Mongolia. In fact some individuals and groups manufacture false foreign passports and illegal visas. Some government officials, including workers from embassies and some foreign citizens, are involved in this illegal activity.<sup>14</sup>

Mongolians go abroad in different ways in order to make more money for a short time. For example, some Mongolian women go to China, Macau,

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<sup>11</sup> Government Resolution No. 155, 2001.10.4

<sup>12</sup> The lowest living condition determined by the NSD in June 2002 is 24,600 tugrug in Ulaanbaatar and 19200-20200 tugrug in other areas.

<sup>13</sup> By the unofficial information of Ministry of Foreign Affairs of Mongolia totally 100 thousand of Mongolian citizens live abroad and 66 thousand of them stay in Kazakhstan.

<sup>14</sup> The conversation with colonel Bilgee from General Police Office, "Unuudur" newspaper, 2002.10.24

Singapore, Malaysia, the Philippines<sup>15</sup> and Belgium and engage in prostitution. Prostitution was prohibited by law in Mongolia until September 2002. But the practice of prostitution has spread among girls and women today and there are private individuals and groups who make money from mediating them. Even though prostitution was prohibited by law in Mongolia, in 1997 one thousand instances of prostitution<sup>16</sup> were registered with the police in Ulaanbaatar alone. There is information that hotels and other places in outlying areas of Ulaanbaatar have been arranged for practicing prostitution.<sup>17</sup> Most of the girls and women who engage in prostitution have become involved in the practice because of poor living conditions.

Because of its geographical location, Mongolia has become an illegal transition place for foreign citizens, particularly for citizens of North Korea to travel to South Korea and for Chinese people to travel to other countries. This practice is also related to the crime of human trafficking across borders. These kinds of crimes have recently been revealed by law enforcement organizations.<sup>18</sup>

In addition, experts from the International Office Fighting Against Drugs have stated that Mongolia may become a transition place for drug transportation between China and Russia.<sup>19</sup> Although there has been no case for the crime of selling drugs to date, some young people have become involved in drug use.

Experts also believe that the comparatively lower risk of contracting the AIDS virus in Mongolia attracts the attention of criminals engaged in

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<sup>15</sup> Unuudur, 2001.10.15

<sup>16</sup> Mongolia, Reproductive Health, Gender and Rights, Ministry of Health and Social Welfare, UNO, UB 2000

<sup>17</sup> Zuunii medee, 2002. 3. 29 No.78

<sup>18</sup> Interview with Chief of General Intelligence Office M.Batsaikhan, Zuunii medee. 2002.2.4 N30-31

trafficking.<sup>20</sup> However, given that four people are now registered as HIV positive and the spread of Sexually Transmitted Disease per 10,000 people has increased twice over the last ten years, the danger of an increase in the spread of AIDS is becoming more real.

Even though the legal environment to deal with the crime of trafficking has been established in Mongolia, the social and economic conditions noted above indicate that the trafficking of women and girls could increase.

Mongolia is therefore faced with the necessity of preventing the trafficking of people across borders. In the National Program for the Advancement of Women, approved by the Mongolian Government in 1996, the main issues discussed concerned violence against women and human rights. While there was some discussion on a policy for creating a favourable legal environment to prevent different kinds of violence against women, to provide for their human rights and to fight violence, there are no certain rules regarding the prevention of trafficking women across borders in this Program. In addition, some aspects regarding the prevention of trafficking of women and decreasing violence against women could not be implemented because of financial difficulties.

The issue of trafficking is included in the draft National Program on Promoting Human Rights, which the Mongolian Government has yet to approve. Item 2.6.5 in this Program talks about taking responsibility for trafficking and forced prostitution and also about providing compensation for victims. However there are no rules regarding domestic violence against women and children in the draft National Program on Gender Equality.

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<sup>19</sup> Interview with Vice-chief of General Intelligence Agency T. Badmanyambuu, Unuudur, 202.1.26 No.21

### **3. The Legal Environment to Deal with the Crime Of Human Trafficking in Mongolia**

Since 2000 the legal environment to deal with trafficking of humans has been in existence in Mongolia. The sale and purchase of persons is a crime in Mongolia.

For the first time in Mongolia, provision has now been made to recognize the crime of trafficking humans for profit. This rule states that a person may be “sentenced to prison for five to eight years for bringing people abroad in order to practice prostitution”<sup>21</sup> and was put into the Criminal Law in 2000. This is the very first rule in Mongolia to deal with the crime of recruiting and bringing people abroad for profit. The first offender found guilty of the crime of human trafficking was sentenced to prison under this law.

Article 113 of the Criminal Law has determined the new legal framework to deal with human trafficking. The second part of this article says that an offender will be sentenced to prison for five to ten years for selling and buying of a human body in order to use organs or practice prostitution, repeating the crime, involving under-age persons in such offences, or if the crime is organized ahead of time.

The third part of this article talks about being sentenced to prison for ten to fifteen years if the crime was committed repeatedly, if a person was trafficked across an international border, if the crime was committed by an organized group, or if the victim suffered an injury.

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<sup>20</sup> Mongolian Criminal Law (old), article 111- (1)

<sup>21</sup> *Ibid*

According to the conditions of the Palermo Protocol, when the crime of trafficking is committed by a group of people and each person has a particular duty, (for example, recruitment, transport, transmission, provision of shelter, purchase, etc.) each person will be considered as having committed the crime of trafficking. As such, Article 113 of the Mongolian Criminal Law which should solve the problem of trafficking, does not reflect the specifics of this kind of crime and does not oversee the international standard of the crime of trafficking. One of the ways to solve this problem is to explain the laws relating to trafficking, which has not yet occurred.

The crime of trafficking is directly related to prostitution. Prior to September 2002, prostitution was prohibited by Mongolian Law and prostitutes risked being fined, arrested and imprisoned. The Mongolian Law against Pornography and the Mongolian Criminal Law still provide for the punishment of people who organize prostitution, provide a place for the purpose of prostitution, involve under-age persons in prostitution and advertise to involve people in prostitution by deception. But there is no article within Mongolian Law regarding those who receive services from prostitutes.

#### **4. Legal Situation of Government Organizations Responsible for Human Trafficking**

For Mongolia's criminal justice system arrangements to address the crime of trafficking are currently in their initial stages.. Prior to 2000, there was no system for dealing with this kind of crime because there was no legal environment or specific article related to this crime. But in 2000 an article

was made<sup>22</sup> as an addition to the Mongolian Criminal Law regarding punishment for deceiving people with the purpose of practicing prostitution. This was the first step in dealing with this kind of crime.

The General Intelligence Agency of Mongolia, General Police Office and the Department of Law and Consul at the Ministry of Foreign Affairs have responsibility for human trafficking issues.

1. In September 2000 the system responsible for human trafficking was initiated within the General Intelligence Agency and one worker has responsibility for these issues. In accordance with the Criminal Investigation Law which was approved in 2002, the General Intelligence Agency has no responsibility to investigate and register the crimes.<sup>23</sup> So the activities of the General Intelligence Agency relating to human trafficking and international crime are limited to the gathering and provision of information to the Criminal Police Office. This has some negative consequences, such as slowing down the process and diminishing the initiative of the person who works in this area.

In particular, General Intelligence Agency workers who work at the Mongolian Consul abroad have no right to register the process when Mongolian citizens become involved in the crime of trafficking and it would likely cause problems for consulate officers to act independently.

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<sup>22</sup> In connection with the enforcement of new criminal procedure laws, the responsibility for registering and investigating crimes under /10.7.3/ and /11.1.41/ as approved in 1999 are no longer enforced. In the renewed criminal law in 2002, registration of crimes will be the responsibility of the General Police Office, the Criminal Police Division, the Border Intelligence Service and the Investigation Division of the General Police Office.

<sup>23</sup> In connection with the enforcement of new criminal procedure laws, the responsibility for registering and investigating crimes under /10.7.3/ and /11.1.41/ as approved in 1999 are no longer enforced. In the renewed criminal law in 2002, registration of crimes will be the responsibility of the General Police Office, the Criminal Police Division, the Border Intelligence Service and the Investigation Division of the General Police Office.

Now the General Intelligence Agency according to provisions in the Mongolian Law of National Safety in 2001, have been working for citizen's rights, freedoms and safety related to the crime of human trafficking. The General Intelligence Agency has the authority to obtain and gather the necessary information through the Consul's Offices at Mongolian Embassies abroad. However, as only one person works in this area, there is a shortage of people, strength and resources.<sup>24</sup>

2. The Criminal Police Office of the General Police Office previously had responsibility for working to address the crime of trafficking. This structure comprised three people and was established in 2000 in order to fight against drugs and pornography. As a result of changes to the Criminal Law and Criminal Procedure Law in 2002, this structure has now changed to become the Department to Fight against Organized Crimes. It has only two workers and includes the Investigation Office of the General Police Office.

According to Article 26 part 1.2 of the Criminal Investigation Law 2002, and the 1<sup>st</sup> and 2<sup>nd</sup> parts of Article 113 of the Criminal Law, the Criminal Investigation Department has rights to investigate those responsible for human trafficking offences. In addition, according to the 3<sup>rd</sup> part of Article 113 of the Criminal Law, the Investigation Office has rights to trafficking offenders.

3. The Ministry of Foreign Affairs deals with the crime of human trafficking across borders according to Consul rules approved by the Mongolian Parliament in 1978. At the request of Mongolian citizens this provides for the safe return to Mongolia.

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<sup>24</sup> The Conversation with Altantsetseg from the General Intelligence Agency, 2002.9.15

## **5. The Criminal Situation of Human Trafficking**

According to available information regarding human trafficking in Mongolia, experts believe that Mongolia brings people out, transmits people and receives them. There is lack of reliable information on trafficking of women and children within the country. However the number of people investigated for the crime of attracting underage girls into prostitution has been increased.<sup>25</sup>

### **The Activity on trafficking across border**

Nowadays there is a lot of information in the mass media about Mongolian girls and women being trafficked. Currently, there has been one case of trafficking across borders that has been proved in the courts. This crime began in 2000 and was revealed in 2001. The victims were two Mongolian women who were sold in Yugoslavia.

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***The First Revealed Case:*** *Two citizens of Russia, a sister and her brother, began their crime of trafficking Mongolian women to Yugoslavia in 2000. They put an announcement in the newspaper Shuurkhai Zar about “mediating a high paid job in some European countries, particularly in Yugoslavia and Romania”. As a result, the offenders recruited two Mongolian women for the purposes of trafficking them. They gave false information to the women about allowing them to perform Latin American dances in bars and restaurants with a salary of \$3000 a month. The offenders then brought the two women to Yugoslavia via China, gave them shelter and forced them to practice prostitution. They then obtained illegal passport extensions and sold the women to a citizen of Yugoslavia in*

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<sup>25</sup> D.Bayarsaikhan The current situation of legal regulation for attracting girls into prostitution and trafficking. Report on the workshop organised by the ILO/IPEC, MSWL and MYDC on the theme: Prevention of women and children from trafficking for the purpose of sexual exploitation. 2001, July

*February 2001. The victims told family members of their situation over the phone and their families made arrangements through the Ministry of Foreign Affairs to bring them back to Mongolia. The male offender was sentenced to prison for six years under article 111.1 of the Mongolian Criminal Law, however he has made a petition to appeal the sentence.*

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Both the Government and NGO workers need to analyse this case and obtain knowledge about the crime of trafficking. Trafficking is a secretly organized crime and victims are not usually willing to provide information. Since this issue is new for Mongolians, it is important to pay attention and get an understanding of the crime in order to prevent it and help protect victims.

Therefore the following issues need to be given attention:

1. The above-mentioned case of human trafficking was revealed accidentally. Fortunately the criminals kept the victims in a room with a telephone in it. Without a telephone, the victims would not have been returned.
2. Both during and after the trial there was a tendency to blame the victims. For instance, both the mass media and the court suggested that the victims knew what would happen to them and went of their own will. But there is no basis on which to blame the women by suggesting that they knew what would happen to them, given that so little is known about the crime of human trafficking. This is just one example of the many ways in which views about women in society are imbalanced.
3. The victims' photos were printed in the newspaper. This was not a protection but an encroachment on the reputation of the victims. It put the women at risk again. If there was another secret group of human traffickers in Mongolia, the exposure of the victims may have provided

them with an opportunity to further damage the victims. The women were not only unprotected, but were continually blamed and insulted. In this particular case, it was suggested that the two victims chose to engage in prostitution. It is therefore possible that other victims of trafficking will be reluctant to seek legal assistance after being trafficked.

4. One of the victims was an orphan and the other had only one parent. The women were aged 18 and-19 years. It is therefore possible that they were chosen because there was nobody to take care of them. So there is a need to give particular attention to vulnerable groups of people who could fall victim to this kind of crime.
5. The victims were deeply depressed and suffered loss, but there was no way to compensate their loss. This is because there is no legal environment to compensate for depression.

Various information sources report that Mongolian women are sold into Yugoslavia, Belgium and Romania in Western Europe and China, Macau, Japan and Singapore in Asia, in order to make profits through prostitution. (Refer to Picture 1 below).

**Picture 1. Sketch of the way in which women have been trafficked in Mongolia, 2002. CHR**



A statement by the General Intelligence Agency reveals that: *in 2001, two companies were found to have brought Mongolian girls into Japan.<sup>26</sup> The companies were referred to the Criminal Police Office but there was no trial until today because no complaints were made by the victims. In addition, a case of the four girls who were going to Nigeria to work was investigated in August 2002 when it was discovered that all of their expenses had been paid by mediators. Information about Mongolian women going to China and practicing prostitution is widely available. These women mostly practice prostitution in Ereen, Khukh Khot and Beijing. Private individuals as well as groups of Mongolians and Chinese have become involved in trafficking. One Chinese citizen was arrested in 2001 for attempting to bring four Mongolian women to Macau in order to make money by forcing them to practice*

<sup>26</sup> Information from the General Intelligence Agency, 2002.10

*prostitution. He was fined and sent back to China even after he confessed his intention to traffick. He had recruited the women in bars and clubs.*<sup>27</sup>

There is no official yearly figure for the number of women involved in prostitution as a consequence of having been trafficked. Even the case of the two Mongolian girls who were sold in Yugoslavia was not registered until October 2002, after the trial had commenced under Mongolian Law. This kind of information could be obtained from government legal organizations in the receiving countries.

### **The Activities of Transferring and Receiving People**

Experts believe that the special location of Mongolia between Russia and China, which are becoming new mines of human trafficking and are locations connecting Europe and Asia, cause Mongolia to be used as a transition place for international crimes. In addition, Mongolia's lack of an appropriate legal environment contributes to this situation. Nowadays there are two ways of transporting people illegally. The first is the transfer of citizens from North Korea into South Korea<sup>28</sup> and the second is the transfer of citizens from China to Western countries.<sup>29</sup>

There is currently a lack of accurate information about Mongolia being a receiving country of the crime of trafficking for the last several years. As noted earlier, it is possible to obtain information via the Internet about Chinese women who have been brought to Mongolia and forced to practice prostitution. According to the above-mentioned information, Mongolia has become not only a sending and transferring country, but also a receiving country over the last few years.

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<sup>27</sup> Udriin sonin, 2001.12.19

<sup>28</sup> Zuunii medee, 2002.3.29 N78

<sup>29</sup> Seryyleg sonin, 2001 N24

## **The Issue of Punishment of Trafficking Offenders**

The offenders of the recently uncovered cases of trafficking in women and children have been foreigners; citizens of China and Russia. However Mongolian citizens may be involved in trafficking by way of assisting foreigners. If foreigners commit crimes against Mongolian citizens they are to be punished according to Mongolian law.

Mongolian law enforcement organizations currently deal with this through fines and the return of citizens to their own country. This includes Chinese citizens arrested for suspicion of crimes of trafficking Mongolian women to China for prostitution, illegal transfer of North Korean citizens to South Korea, or of Chinese citizens to western countries. Even the Chinese citizen who admitted to having trafficked Mongolian women to China was returned to China without trial. (refer to page 15 of this report)

The court case in which a Russian citizen was convicted and sentenced for the crime of trafficking two Mongolian girls to Yugoslavia was the first major legal outcome in the fight against trafficking. The outcome in this case was not only the result of work on the part of law enforcement organisations. There were other factors leading to this result. First of all the offender was both living and working in Mongolia, so it was relatively easy to arrest him. The victims were also able to come back and wanted to proceed with legal action. Generally, victims often avoid proceeding with their claims through the courts. In addition, there was significant support from non-government organizations in protecting the victims and providing legal representation. However, there is a great need to address the inability of authorities to punish foreign citizens found to be engaged in trafficking.

## **6. The Crime of Trafficking in Children**

Evidence of the crime of trafficking in children has not yet emerged in Mongolia. However the conditions for this crime to occur are present. As a negative consequence of unemployment and poverty, many children leave home, drop out of school and become street children. Using drugs and engaging in the intolerable practice of prostitution, their health, education, bodies and minds are damaged.

Girls engaged in prostitution are most at risk of becoming involved in trafficking. Research has shown that highly organized criminals force girls down this path in order to make money.<sup>30</sup> It has also been revealed that organizers are often family members or girls who have practiced prostitution before. More than half of the girls who were involved in research on this issue were between thirteen and sixteen years of age. Twelve out of sixteen girls aged 10-22 stated that they became prostitutes against their will. This indicates that organized criminal activity forces them to engage in this practice. Smaller hotels also participate in these organized activities; a number of small hotels in Ulaanbaatar are known to be involved.

There are approximately 200-250 girls engaged in prostitution in Ulaanbaatar alone. In addition, some girls come from Darkhan-Uul, Erdenet and Dornod to Ulaanbaatar.<sup>31</sup> The practice of prostitution amongst under-age girls is not limited to Ulaanbaatar, but is spread out among other big cities like Darkhan-Uul, Orkhon, Dornod, Selenge and Zamiin-Uud.

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<sup>30</sup> A. Solongo, Children depend on somebody and it causes them to practice prostitution, *Zuunii medee*, 2002.10.15, No 249 /1135/

<sup>31</sup> Interview with the D. Byambatsetseg, Program coordinator of MYDC

Prostitution is also prevalent in Selenge and Zamiin-Uud, which are near Mongolia's borders. These girls could therefore easily be trafficked across the border. The criminals who force girls to practice prostitution have various ways of connecting them with people and foreign criminal organizations. The police and workers from the Children's Nursing Organization believe that the crime of child trafficking through borders could be made by pretending to be giving them up for adoption to foreigners.<sup>32</sup>

The issue of giving children up for adoption to foreigners is decided by the Office of Foreign Citizens and Citizenship Issues, according to special rules approved in 1999. These rules require that a person who wants to adopt a child must provide official papers about the child being physically and mentally healthy, having financial support and having not been involved in any form of criminal activity.

Following the adoption of a child, the person must then send a report on how the child has developed and is being educated to the Office of Foreign Citizens and Citizenship Issues as well as to the Ministry of Labor and Social Welfare and the General Office of Citizens' Registration and Information. Since 1999, 40 children have been given up for adoption to foreign citizens according to these rules.<sup>33</sup> These rules state that an adopter must not adopt a child for the purpose of making a financial profit, but there is as yet no way to verify this.

In order to prevent the trafficking of children, attention must be given to the fact that people bring under-age children abroad and there is no way

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<sup>32</sup> From the discussion with court, police, government and NGO workers.

<sup>33</sup> Interview with P. Bolormaa from the Office of Foreign Citizen and Citizenship Issues

to check if they then bring them back. Therefore, a conclusion is outlined below regarding improving border checks on this issue.<sup>34</sup>

Article 121 of the Mongolian Criminal Law outlines the punishment applicable, “if children are forced to labor”. Yet there is no way to determine whether someone will force a child to work abroad.

Article 113, part 2.5 provides for a prison sentence of five to eight years if a person is found to have sold an under-age child. In addition, part 3 outlines the punishment for having, “committed trafficking across a border” but it does not include details such as if the victim is an under-age child.

As the crime of child trafficking could be committed under the guise of adopting a child to a foreigner, some research has been conducted on this issue. Article 58 of the Family Law has determined various conditions regarding the adoption of children. These operate according to the rules No 100/32 of the Ministry of Justice and Internal Affairs and the Ministry of Labor and Social Welfare, and were passed in 2001. Article 15 of these rules explains the details of an adopter’s responsibilities and this helps prevent a child from being violated.

## **7. Public Knowledge and Information**

For ten years Mongolia’s foreign relationships have expanded and become less restricted and citizens freely travel abroad. Mongolians have a lot of knowledge and experience of going abroad to work or study, both legally and illegally. But Mongolians have less knowledge about the crime of

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<sup>34</sup> Conclusion from the seminar in July of 2001, on the topic of “The Prevention of under-age girls from being trafficked for profit” organized by International Children’s Organization, Children and Youth Development Center of Mongolia

human trafficking. This is because there are no individuals or organizations that can provide an understanding or knowledge about the crime of human trafficking and how dangerous and risky it is.

In particular, there are no facts or information available regarding those people who could easily fall victim to this kind of crime. But it is possible to determine that public awareness about this situation is inadequate. Most women who go abroad to work or to marry have a desire to earn money through easier means and mediators encourage them to believe this is possible. The two victims in the Yugoslavian case had no understanding other than that they would perform Latin American dances in bars and would receive an income of \$3000.<sup>35</sup>

The only means for the public to obtain information on this case was via the mass media. These kinds of criminal cases have been reported in the media for several years. However it could be said that accurate information, which could give a real understanding about the crime, was given only once. This was the set of basic information in the *Unuudur* newspaper in 2002, which talked about the crime of human trafficking.

In addition, groups of people more likely to be at risk, including young people, particularly young women who may become victims of this crime, may not read the newspapers, which occasionally contain information that may help them to obtain greater knowledge of this crime and assist in its prevention.

So it may be said that the public does not have enough information on, or knowledge about, the crime of human trafficking. It is therefore necessary

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<sup>35</sup> From the Court decision of Sukhbaatar District Court, 2002.3.6 No.118

to conduct further research on this issue in order to improve public awareness and help prevent the public from experiencing problems related to human trafficking.

## **8. Mass Media and the Crime of Human Trafficking**

The crime of human trafficking in Mongolia is related to the mass media in many ways.

**Firstly**, criminals use the mass media to select victims. Nowadays the mass media have a lot of advertisements about the availability of highly paid jobs abroad, such as finding jobs in bars and massage places, helping to marry Korean and German people etc. The two women involved in the Yugoslavian case, went because of an advertisement in the *Shuurkhai Zar* newspaper describing a highly paid job in Yugoslavia and Romania.

During 2001-2002, daily newspapers like *Udriin Sonin*, *Zunii Medee*, and *Unuudur* have been advertising information such as: mediating young women aged 18-24 for employment in nursing babies, or mediating young women under 23 years of age to marry Korean men etc.

**Secondly**, the mass media becomes the main source of information for research when there is a lack of information related to human trafficking. In 2000-2001 there were more than ten announcements, statements and interviews included in the newspapers of *Unuudur*, *Udriin Sonin*, *Zuunii Medee*, and *Seruuleg*. There are only five facts about women being trafficked and deceived or on attempts to bring people out and force them to practice prostitution that have been recorded. These are that:

- Two women were sold in Yugoslavia;
- An attempt was made to bring four girls to Macau via China;

- Women in Macau have practiced prostitution;
- There are known cases regarding Mongolian women being forced to practice prostitution in China; and
- Mongolian women have provided table service in Japan.

Prior to 2000, when the CHRD first undertook research on this topic, there was only one case of human trafficking across borders that was recorded in the newspapers. But after two years the number of cases has increased.

**Thirdly**, information in the mass media about human trafficking provides knowledge to people in order to help prevent them from becoming victims of such crimes. So those involved in the media have a lot of responsibility to provide accurate information and make this problem known to the public.

In the Yugoslavian case, photos of the two victims were published in the newspaper. As a consequence, many future victims may believe that if they come to court they will be identified by the media. So some victims may not come to the court at all. In addition, when the media was reporting the Yugoslavian case, there was a tendency to blame the victims instead of the offenders. Even the lawyer at the trial had a tendency to suggest that the victims knew what was going to happen to them.

There is no basis on which to blame the victims, especially when this crime is new and there is a distinct lack of information available about this kind of crime. The blaming of victims and suggestions that they knew what would happen to them can have negative consequences in relation to protecting victims and revealing incidences of this crime. In addition, it shows that some workers in the mass media need to improve their

knowledge and understanding about significant cases of human rights violations.

## **9. The Participation of NGOs**

There is a need for Mongolian NGOs to work in relation to the crime of human trafficking. Recently some NGOs, which have already been working on human rights issues, have begun to work on this issue. The first research that was undertaken on the issue of human trafficking was made by the Center for Human Rights and Development in 2000.

The participation of Mongolian NGOs in the case of the two women trafficked to Yugoslavia was different. An NGO worker had been trying to use the Internet to exchange information and ask for help in relation to reveal the crime of trafficking in Mongolian girls. Another worker then personally participated to protect the victims during the trial. The tendency for women's human rights to be violated and the need for greater protection of victims are the most important aspects of this crime from a human rights perspective as was highlighted by the court's handling of this case. The victims of the crime of human trafficking are usually girls and women. In the mass media in Mongolia women are further victimised. So it is necessary for NGOs that work on issues of women's human rights to get involved in activities to prevent this kind of crime.

## **10. Conclusion and Recommendations**

1. The crime of human trafficking has been revealed for the first time in Mongolia and conditions favourable to an increase in this crime in the future have emerged. These conditions are related to internal factors of Mongolian society such as widespread poverty, unemployment, inadequate income, and an increase in prostitution and drug use. Thus,

the basic conditions to prevent citizens from being vulnerable to these crimes are an increase in economic growth and a decrease in the negative consequences of poverty and unemployment.

2. The crime of trafficking in women and children is a relatively new issue in Mongolia. However given that trafficking is included as an issue in the Government's program indicates that it is an issue that must be addressed now. The draft National Program on Human Rights developed in 2002 but as yet not approved by the Government, includes the issue of combatting the crime of trafficking. This issue is closely related to gender equality issues. The National Program to Advance Gender Equality which is currently under development should also include action in relation to preventing women and children from being trafficked.
3. One of the main prerequisites to enable Mongolia to protect its citizens from trafficking is obtaining international support and participation in action against trafficking. Mongolia needs to join the Palermo Protocol on combatting trafficking and cooperate with global, and regional international organisations against this crime. In doing so Mongolia can become a part of the international force against this crime.
4. The legal environment to address the crime of human trafficking has only recently emerged in Mongolia. There is a need to match the definition of this crime with international definitions, including our own specifics, as well as determine the responsibilities of law enforcement organizations that will be responsible for dealing with this crime.
5. The law enforcement system, which should be working to address the crime of human trafficking across borders, is only in its initial stages. In the last two years, the structure of the Intelligence Office and the

Police Office established to deal with trafficking crime has been inconsistent, poorly staffed and poorly coordinated. In order to remedy this, attention must be paid to ensure that the capacity of the structure to fight trafficking is improved and is able to work consistently and in a coordinated fashion.

6. According to information relating to the trafficking in Mongolia, people who commit this crime are foreigners and they are currently not brought to trial. Special attention must be given to this situation. The current situation encourages those involved in trafficking to have a strong interest in Mongolian women and girls.
7. In addition to the legal environment recently established in Mongolia, there are some Mongolian non-governmental organizations working on this issue. The first research activity undertaken on trafficking in Mongolia was done by an NGO in 2000 and the first seminar on preventing trafficking in women and children was organized by an NGO jointly with government organizations. There is a real necessity for NGO participation in the issue of preventing trafficking, particularly NGOs working on women and children's human rights issues.
9. Understanding about the crime of human trafficking across borders is very poor amongst the public, especially for the groups of people most at risk at becoming victims of the crime. In addition, law enforcement organizations working on this issue are mostly involved in investigation but not in prevention. Citizens have to be alert in order to defend themselves. Therefore, a survey should be conducted on how to improve knowledge and understanding about trafficking among the public, particularly those groups most at risk. This will require NGOs that work with children and women to work cooperatively with relevant government organizations.

10. Although many cases of trafficking are registered, criminals rarely go to trial because victims do not wish to proceed to a court case. One of the reasons for this is the victim's fear that they will be publicly identified and have their reputation questioned. In addition, there is no legal environment available to compensate victims for their loss. It is dangerous for victims to lose their reputation if there are no financial and health guarantees available. Therefore, greater attention needs to be paid to the protection of victims.

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