

National Human Rights Commission of Mongolia: Building Positive Attitude to Human Rights

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HUMAN RIGHTS EDUCATION is not just a system of training and knowledge building but also a continuous process in everyday life and work to protect and ensure human rights. In addition, it is closely related to building a society in which people, especially the marginalized groups, are empowered and enabled to demand their rights, while duty bearers are enabled to have the full capacity to fulfill their duties. Thus, the National Human Rights Commission of Mongolia (NHRCM), since its establishment in 2001, has been assessing the situation of human rights and freedoms in Mongolia and independently providing the government with recommendations on what problems exist in Mongolia, what should be improved, and what support should be provided to every human rights education action.

Human Rights Promotion

According to the United Nations World Programme on Human Rights Education (WPHRE), human rights education is “... education, training and information aiming at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes...”¹

The United Nations Office of the High Commissioner for Human Rights (OHCHR) and UNESCO elaborated this definition by stating that:²

A comprehensive education in human rights not only provides knowledge about human rights and the mechanisms that protect them, but also imparts the skills needed to promote, defend and apply human rights in daily life. Human rights education fosters the attitudes and behaviors needed to uphold human rights for all members of society.

The WPHRE plan of action definition states that the purpose of human rights education is to build a culture of human rights. In order to build a culture of human rights, a duty placed upon the State by virtue of its membership in the United Nations and adherence to a range of international human rights treaties and conventions, it must impart knowledge about human rights and their enforcement/protection mechanisms, provide skills to promote, defend and apply human rights, and shape attitudes and behavior so that human rights are upheld.

Human rights education is a core component of any country's efforts to strengthen respect for human rights and fundamental freedoms. Since the founding of the United Nations (1945) and the proclamation of the Universal Declaration of Human Rights (1948), the necessity and potential of education as one of the primary vehicles to promote and protect human rights have been recognized. Dynamic efforts for the promotion of human rights education have been made since the 1993 World Conference on Human Rights propelled a cohesive effort throughout the international community to strengthen human rights education. These initiatives, including the most recently adopted United Nations Declaration on Human Rights Education and Training,³ offer Mongolia an opportunity to develop a concrete plan to meet its commitments in promoting and protecting human rights in Mongolia.

As Mongolia envisions and formulates the road to national recovery in light of the global and national dynamics, it is the NHRCM's view that human rights education - adequately resourced and effectively practiced within each sector - is an integral component of the human rights and equality infrastructure needed to ensure the well-being of all who reside in the country.

The 2003 National Human Rights Action Plan (NHRAP) has the objectives of developing formal and informal human rights education systems by establishing baselines, needs assessment, and scope of action (provision 1.1.2.6); developing a sub-program on human rights education for its staff in preparation for the tasks; and training human rights trainers. Four years passed since the adoption of the NHRAP and yet the provisions for undertaking baseline study and developing sub-programs have not materialized. In part, this slow development has been attributed to uncertain financial support and unclear implementation mechanisms. Cabinet resolution #17 (2007) approved the NHRAP Operational Plan (2007-2008) that made the Ministry of Education, Culture and Science responsible for devising the sub-

program for developing model human rights curriculums for formal and informal education and preparing the training of trainers (TOT) modules. However, relevant authorities should take into consideration the fact that the resolution remains unclear on the financing aspect of the sub-program.

Current Human Rights Education Programs

The second phase of the WPHRE prioritizes human rights education and training of public servants, law enforcement officers (including police, prison personnel and border patrols) and military personnel. Human rights education is essential in equipping the personnel of the public service with the knowledge, skills, attitudes and ways of doing their work that promote and protect human rights. In the Mongolian context, there is a broad recognition of the importance of human rights education and training in a variety of statutory and policymaking bodies. There is an understanding that embedding human rights in public sector practice means linking human rights with standards of policy and service delivery, and that these standards should be benchmarked and monitored to measure performance and that mechanisms should be in place to hold the government to account.

In addition to meeting human rights obligations, ensuring the highest quality of human rights training for public servants across the public service system enhances staff morale and quality of service delivery. Despite this, the State and its organs do not provide systematic training on human rights for public servants. There is little guidance tailored to service providers in applying human rights principles in their work. The approach taken by the Civil Service Council of Mongolia is a welcome exception. Key training providers (including the Academy of Management in Mongolia) for the Civil Service Council of Mongolia are receptive to enhancing the human rights capacity of the public servants they train. In addition, there exists a most welcomed openness to increasing the profile of human rights across the public service sector.

The Civil Service Council of Mongolia led the way in terms of good practice in relation to human rights education and training in the public service. Each government department is responsible for the training and development of its staff. There is more emphasis in the public service on the delivery of quality services. There are implicit references to human rights principles in the government's quality public services initiative, but little

training has taken place due to resource constraints. Human rights education and training can develop the skills and know-how in applying human rights principles in public service practice.

NHRCM holds an annual average of three hundred twenty training sessions with two thousand five hundred participants. The training sessions generally cover the following topics: “Basic concept of human rights,” “International human rights treaties and mechanisms,” “Human rights-based approach,” and “Human rights in criminal procedure.” The sessions are designed for officials of law-enforcement organizations regardless of position.

In addition, to raise human rights awareness as well as promote human rights, NHRCM uses different methods including the development of brochures, training materials and guidance for promoting human rights using different mediums (namely, TV/radio programs and Moodle-based online training platform).

NHRCM puts high priority to human rights education in its cooperation work with state organizations. It enters into Memorandums of Understanding (MOUs) with state organizations to define priority areas of cooperation including holding training at the workplace, preparing trainers, and organizing training for staff.

Observations

There are some important observations regarding the human rights education activities of NHRCM for the public servants. These observations are themselves learnings that should be considered in the future activities of NHRCM.

a. Human rights violations recognition as first key step

In NHRCM’s human rights education activities for public servants, the participants would deny at the beginning the existence of any form of human rights violation in the performance of their duties. They would instead point to the popular yet wrong notion that only those who violated the laws or the criminals violated human rights. In view of this situation, NHRCM decided to give special attention to the particular issue of torture and the right not to be tortured.

NHRCM investigations on human rights violations such as the 2005 national-level project on “Banning torture and other cruel, inhuman, or degrading treatment or punishment” have uncovered various forms of very latent and chronic ill-behavior among the public servants involved. There seems to be patterns of abuse as much as organizational weaknesses that bring about these kinds of human rights violations.

To ensure proper attention on the violations, NHRCM added a chapter in its annual reports on these specific forms of human rights violations. The results of the 2005 investigation on torture was featured in the chapter on the situation of human rights and freedoms in the 2005 annual report of the NHRCM. The State Great Khural (parliament), having received and considered the 2005 annual report, issued a resolution requiring change in the behavior of public servants. Additionally, the General Authority for Implementing Court Decisions also recognized the existence of ill-behavior among public servants that led to human rights violations.

The recognition of existence of human rights violations perpetrated by public servants and the expression of the need to change their behavior laid the ground for human rights education to help address the issue.

The General Authority for Implementing Court Decisions acted to address the faults and ill-conduct of public servants in their activities and formalized an agreement with the NHRCM to co-organize regional training sessions and workshops every year to raise the awareness on human rights of its officers and employees. NHRCM also issued a guide to public officers and employees on how to apply human rights principles in their work.

b. Formal cooperation agreements with government agencies

NHRCM has been entering into MOUs with different government agencies regarding cooperation on human rights concerns. The MOUs define the scope of cooperation between them, and include provisions on human rights education. NHRCM’s human rights education activities employ the participatory approach including sharing of individual experiences, use of gender-sensitive case studies, group discussion, and debate on specific human rights violations.

NHRCM has MOUs with several government agencies, namely, the National Authority for Children, General Authority for State Registration, General Police Department, General Authority for Specialized Inspection,

General Authority for Border Protection, and General Staff of the Armed Force.

NHRCM expanded its formal cooperation agreement to non-governmental organizations (Confederation of Mongolian Trade Unions, Mongolian Employers' Federation) and to foreign and international organizations (such as New Zealand Human Rights Commission, National Human Rights Commission of Korea, United Nations Development Programme, Swiss Agency for Development and Cooperation).

The MOUs have been helpful in undertaking human rights education activities in general, and human rights education for public servants in particular. Human rights education projects with government agencies received support from the local non-governmental, foreign and international organizations that have MOUs with NHRCM.

Through the MOUs, the government supports the public servants by ensuring their training or workshops at the workplace, seeking the possibility of involving those in local areas in the training activities or workshops, allowing them to take leave from work to attend the training activities, and securing the work environment for trainers.

c. Change in perception and behavior

There appears to be positive change in the attitude of officials of law enforcement agencies and administrative bodies who participated in human rights education activities. For the purpose of preventing misconduct that has become common practice (and largely undetected by internal investigations) and in order to comply with the requirement of applying human rights principles in the operations of the government agencies, these officials have started to request the NHRCM for cooperation in organizing inquiries, making analysis part of documentations, and holding training sessions.

d. Changing the understanding of human rights

The lack of clear understanding of human rights leads to actions that either violate human rights or ignore international human rights instruments. NHRCM has to take action to ensure that government agencies support human rights rather than violate or ignore them.

The city government of Ulaanbaatar previously claimed that the NHRCM need not interfere with its work of addressing the problems of its citizens. In 1995, the Capital City Citizens Representatives Khural (Council)

adopted Ordinance No. 69 (later amended by Ordinance No. 46, 2000, and Ordinance No. 8, 2001) that imposed the so-called “service fee” on people who move and settle in the capital city of Ulaanbaatar. Adults have to pay 50,000 MNT (35 US dollars) service fee, while minors (under the age of 18) pay 25,000 MNT (17 US dollars). This requirement clearly violated the right to freedom of movement. Based on this requirement, migration expenses for a five-member family with three children goes up to 200,000 MNT (140 US dollars) on the average. There is neither information nor a system of accounting for the expenses made using the service fees collected. All arguments lead to a conclusion that this Ordinance is equivalent to the strangling of the right to freedom of movement through economic means.

Some *aimags* (provinces) and *soums* (lower administration units) adopted the same rule:

- The Board of the Kherlen Soum Citizens Representative Khural enacted in 2001 Ordinance No. 15 imposing fees for new residents, 10,000 MNT (7 US dollars) for adults and 5,000 MNT (3 US dollars and 50 cents) for minors.
- The Board of Darkhan-Uul Aimag Citizens Representative Khural enacted on 14 April 2001 Order No. 25 imposing a one-time fee of 25,000 MNT (17 US dollars) per person nineteen years of age and above as well as a monthly temporary residence fee of 2,000 MNT (1 US dollar and 40 cents) for each adult.

Considering the imposition of “service fee” to be able to reside in Ulaanbaatar as human rights violation, the NHRCM petitioned the Supreme Court to revoke the Ulaanbaatar Ordinance. The Court ruled in favor of the NHRCM and revoked the order of the City Governor. This case illustrates a successful effort of the NHRCM in having malpractices in local areas abolished.

Judges and arbiters previously took the stance that international treaties and conventions need not be given importance. Based on Article 15.6.3 of the Law on the Courts of Mongolia, the Supreme Court issued on 28 February 2008 Resolution 09 on “Using international treaties which Mongolia is a party to and the internationally recognized norms in court practice.” Paragraph 6 of Resolution No. 9 directed judges to use international treaties in adjudicating court cases. However, judges explained that their failure to apply the international treaties was due to the lack of of-

ficial translation of the instruments, and even if there is one, it does not get published on the State Gazette. Paragraph 13 of the resolution made the NHRCM and the Department of Law and Treaty of the Ministry of Foreign Affairs in cooperation with the Ministry of Justice in-charge of providing all courts and judges with correct information in timely manner about the official translation of international treaties to which Mongolia is a party, list of treaties, their validation periods and enforcement dates, dates of their ratification, and information regarding official publication of international treaties. As for arbiters, paragraph 12 of the resolution and the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, 1958 required them to apply the international instruments in the cases before them.

Although armed force units did not recognize the importance of civilian human rights monitoring, NHRCM continues to undertake inquiries that lead to findings of ill treatment and adverse conditions that violate human rights. After monitoring and inquiry, NHRCM reported to the Parliament of Mongolia for the first time in 2007 the rules on service misconduct and its consequences, disciplinary sanctions, housing and living conditions of military servants, food and uniform supply of military servants, medicare services and medication supplies, pensions, allowances and social protection of military servants, and the right to work of civilian staff. The report has become the basis of systematic change regarding malpractices that were remnants of the Soviet regime.

d. Cooperation partnership

Aside from providing public servants with human rights education, another aspect of the issue is the formation of partnership between government agencies and NHRCM. In 2012, the General Police Department, requested NHRCM for an analysis of its rules and regulations to determine whether or not there were provisions or clauses that violate human rights. Having received complaints from participants during training sessions regarding the treatment of women in the government agencies, NHRCM made an inquiry and assessed the condition of the workplace of women who were referred to as “public special servants.” NHRCM included its findings in the 2011 report on human rights and freedoms situation in Mongolia. As a consequence, government agencies responded by changing systems in order to put an end to the misconduct mentioned in the report, and the employees of the concerned government agencies expressed support for the NHRCM

activities and praised its contributions to human rights protection by clarifying the specific issues (such as age, gender and education discrimination, sexual harassment, service misconduct, political polarization) of the institutions where hierarchy of command exists.

Since the 2003 National Human Rights Action Plan obliges the government to promote human rights education, the NHRCM took a leading role in training government personnel on this task. As a result, regardless of the status of employees (be they public administrative [those occupying high positions such as managers, chiefs, etc.], public special [those belonging to uniformed services such as members of the police and the military, officers of the intelligence agency, and also prosecutors, judges, etc.], or public service [they include teachers, doctors, nurses, social workers, etc.] servants), government agencies started to adopt and implement training programs that are carried out throughout the year at the organizational level. These programs showed the importance of human rights education.

In addition, the government agencies have given high value to training programs to provide human rights education and expanded their cooperation with civil society. For example, NHRCM, in cooperation with Electors' Education Center and Amnesty International Mongolia, organized trainers' training and prepared counterpart trainers of the same level that contribute to building human rights culture within the organization.

Because the limited number of human rights education officers prevents the NHRCM from holding training sessions at every request, it commenced an "e-training campus" as an alternative, and to enhance the effectiveness of, training program.

The human rights education activities of the NHRCM held on its own initiative as well as in cooperation with governmental and non-governmental organizations have been very effective in building and improving the capacity of public servants who implement the government's duties and responsibilities to respect, protect, and fulfil/realize human rights.

Endnotes

¹ Article 3, World Programme for Human Rights Education, Revised draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education, UNGA A/59/525/Rev.1, page 3.

² The Plan of Action for 2005-2009 in Brief, page 1.

³ The declaration was adopted by the United Nations General Assembly on 19 December 2011, see United Nations General Assembly A/RES/66/137, 16 February 2012.