

## **Statement prepared for Commission on Security and Cooperation in Europe Briefing “Mongolia After the State of Emergency”**

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### **What led to the political disturbance?**

In addition to allegedly rigged June elections in Mongolia, the political disturbance in the past month, when viewed in a broader context, points at deeper root causes.

Corruption tops the list. The 2004 parliamentary elections brought more openness and transparency in the government. For the first time, the government, in the capacity of Prime Minister, admitted that Mongolia has a high level of corruption and pledged to fight against it. However, increased transparency hasn't necessarily resulted in better accountability. On the contrary, with the change of the government a year later, apparent conflict of interests appeared in almost all government activities. Many serious allegations and cases have been reported by the media to Mongolia's public. However, to this day, almost none of the cases, involving high level government officials, has been resolved before the law.

Secondly, Mongolians have witnessed drastic income disparities within past 10 years. Despite persistent 10 percent annual growth of GDP last 3 years and high commodity prices no jobs have been created. The (official) unemployment rate remains unchanged at 14 percent. In addition, consumer price inflation rate reached 32 percent in May, 2008 from being a single-digit number last year. Although millions of dollars of public investments have been made, no improvements have been observed.

In light of these circumstances civic activism has grown at an unprecedented rate. Demonstrations have become increasingly common, as more and more people feel that this is the only way for their voices to be heard. For its part, the government has failed to adopt effective mechanisms to respond. To mention one example, public participation in decision making at all levels of the government still remains an elusive question, which the policy makers chose to ignore to this day, despite years of advocacy efforts by CSOs to put in place formal mechanisms through which citizens can have their voices heard in decisions that affect their lives.

Finally, the alleged election fraud that took place during the June 29 election further fuelled the growing public discontent as a result of persistent injustice and corruption.

### **June 29 Parliamentary elections**

As the preliminary results of the June 29 elections began to appear the next morning, different candidates and parties started alleging large scale election fraud, including, among other violations, illegal registration of voters at polling stations, fake national and voter IDs issued to facilitate multiple voting, inaccurate vote counting, and the stealing and replacing of ballot boxes.. The allegations culminated in a public

demonstration outside the MPRP building on July 1, ending in violence that ultimately led to the declaration of the four-day state of emergency by Mongolia's President.

The 2008 Parliamentary election was organized based on the Law on Parliamentary elections, which had seen a series of amendments and changes following the previous election in 2004, some of which drew fierce criticism from CSOs and researchers. Criticisms included, among other things, the extremely short campaign time (14-20 days at most at the end of lengthy registration process for candidates), unsuitable for a sparsely-populated country such as Mongolia, and unnecessary limitations on the ability of independent candidates to register and participate in political campaigns. CSOs repeatedly voiced their concerns over the fact that the legal framework does not sufficiently ensure transparency of the electoral process. In addition, various stakeholders also voiced concerns at the lack of balance in the representation of parties in the structure of the General Election Committee (GEC) and the detrimental effect that this could potentially have on the Committee's ability to make non-partisan decisions.

With these criticisms and concerns still going unaddressed, the potential candidates started campaigning months before the elections officially started. In response to complaints of vote buying and the use of public resources in campaign activities, the GEC stated that it had no power to take any action before the election was formally announced. However, even after the official announcement of the election, the GEC remained unresponsive and nonchallant in the face of various complaints and appeals by different stakeholders. This further undermined the already low confidence among stakeholders in the GEC's ability to act as an impartial and independent organization.

One of the critical issues discussed and disputed throughout the entire process was the quality of the voters list. As one of the building blocks of credible and legitimate election process, the voters list must be accurate and up-to-date. The full voters list was made available on the Internet in March 2008, giving individuals an opportunity to verify their information on the list. The Philanthropy Center, as part of the Civil Society Watchdogs for A Fair Election network carried out a list-to-people test in Election District 22 and found systematic errors in the list including 11003 "ghost" voters, who do not live at the addresses where they were registered or were registered at nonexistent addresses. The GEC did not communicate to CSOs what actions they took to remedy the errors.

Amid this host of criticism and concerns the voting day arrived on Sunday, June 29, 2008 and the voting continued fairly smoothly through the day until closing time. Although the international observers reported "no systemic or widespread irregularities in the opening procedures, in the vote casting process, or in the vote counting process"<sup>1</sup> domestic CSOs observing the process outside polling stations<sup>2</sup> reported and documented following irregularities:

- Transportation of voters to polling stations by candidates
- Vote buying (distribution of cash outside polling stations)
- Campaign activities outside polling stations

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<sup>1</sup> The Asia Foundation's Report on Parliamentary Election Observation, June 2008.

<sup>2</sup> Domestic observers cannot be accredited according to Mongolia's election law

- Exclusion of votes from the list and denial of access to polling stations
- The illegal issuing of Voter IDs
- Deliberate obstruction of the voting process on purpose
- The improper exclusion from the process of legally eligible voters

As mentioned before, the preliminary results of Sunday's voting started arriving on Monday. On the same day, the Civil Coalition and, a day later, the Democratic Party alleged that extensive fraud had taken place during the vote counting. Mr. Elbegdorj, Chairman of the Democratic Party (DP) said at a press conference that the MPRP had stolen votes from the DP by replacing ballot papers, inaccurately counting votes and illegally altering the number of votes on the tally sheets in its favor. Despite these serious allegations, the GEC took no decisive action and stayed mute.

Overall the post-election events have highlighted a lack of transparency in the election process that either led to malpractice, or prevented people from having confidence in the outcome of the process.

On July 1, 2008, frustrated in no small part by GEC's lack of response to their complaints, several smaller parties began a demonstration outside the MPRP building to express their discontent with the election results. A few hours after the demonstration started the situation slipped out of control and escalated into violence. Many believe that had the police acted promptly in an effective manner, the violence could have been interrupted before the damage was done. However, the events which unfolded suggested a tragic lack of conflict management capacity and skills on the part of the police leadership. The government, for its part, failed to accurately assess the situation and take proper measures in a timely manner.

### **State of emergency**

The demonstrations in Ulaanbaatar and the ensuing violence led to the declaration of a 4-day State of Emergency in Ulaanbaatar by the President of Mongolia. This, the first of its kind in Mongolian history was publicized and implemented in ways which also raise concerns. Article 19.2 of the constitution states that "in the case of a state of emergency or war, ... human rights and freedoms ... shall be subject to limitation only by a law." No such law was ever passed by the legislature, and the President's Decree on State of Emergency mentioned nothing about the protection of human rights during the implementation of emergency measures.

The 1995 Law on the State of Emergency incorporated the key principles of protecting and respecting human rights and freedoms. However, the implementation of these broad principles failed in July 2008 due to the absence of rules of conduct and detailed procedures to be followed by the police and military personnel in such a situation. Whether the State of Emergency law is, as a whole, capable of dealing with emergency situations is now under question and must be considered by the parliament.

Reportedly, many civilians have suffered from arbitrary arrest and deprivation of liberty mainly because they were not informed that a State of Emergency had been declared, and/or were unaware of the rules of conduct in such a situation. The police,

on the other hand, neglected such routine procedures as checking personal IDs, by failing to explain the grounds for arrest, or by using excessive force.

Out of 5 people killed during the State of Emergency 4 suffered gunshot wounds. In addition, 4 civilians suffered non-fatal gunshot wounds. It is important to remember that all these deaths happened not during the demonstration or riots, but after the State of Emergency was announced and tight military control was imposed. Because of suspicions that the police may be the ones responsible for the shootings, the Special Investigation Unit under the General Prosecutor's Office, rather than the police, is investigating the cases.

Over 700 civilians were arrested and brought to a detention center designed for just over 100 inmates. Working outside the detention center, our monitoring team was able to interview released detainees and to collect anecdotal evidence of beatings, torture and other forms of degrading treatments inside the detention center. Conditions in the detention center itself were reported to be below any minimum standard. Lack of air, space, water and food as well as lack of information created other forms of torture and inhumane treatment. Many detainees, especially minors, were deeply traumatized by the experience and the monitoring team has provided some counselling in cases of psychological shock.

Other widely observed violations relate to the interrogation process. Many minors and people with disabilities were interrogated without their legal custodian or attorneys present as required by law. The interrogation was not conducted according to law; detainees were forced to confess their guilt and to give false testimony against themselves. Many families were not informed of the whereabouts of their loved ones even after 48 hours had passed; denied access to information by the police, many spent long hours searching for their family members themselves, which caused further emotional and economic hardship.

In response to coordinated efforts by CSOs, the police and other authorities' have become more sensitive to human right protection. The monitoring team is currently working on its report and recommendations. Human rights attorneys are continuing to provide legal aid to detained indigent citizens still held in the Pre-trial Detention Center.

### **Where does Mongolia go from here? (Questions of political, social and economic development)**

As of today, a month after the July 01 events, there is no thorough analysis of what happened and why it happened. Instead, some media easily jumped into a conclusion that this was an attempt at a "color revolution" by the leaders of the Civil Movement Party (who organized the demonstrations), the Democratic Party (who publicly called the election 'unfair' the same day the demonstration took place) and CSOs (who released public demands for the observance of democratic principles and human rights under the State of Emergency). Mongolia society is now highly politicized and polarized closely reminding the situation back in 1990 in the onset of democratic revolution. One of the factors that contributed to this is the one-sided coverage of the events by the National Public Service Broadcast, the only media allowed to work under the State of Emergency, which repeatedly showed violent scenes, providing

reports and interpretations only from police sources throughout all 4 days of the heightened alert.

In the political domain, all stakeholders, including the President and the Head of the GEC, have acknowledged there were multiple cases of fraud in this year's election. Political parties have agreed to accept the legitimacy of the election results in districts where massive fraud was not reported. However, 2 separate GEC reports on the election results submitted to the President for endorsement have added uncertainty to the existing situation.

The GEC submitted election results in 21 districts out of total 26 on July 10<sup>th</sup> but only 4 days later it presented results of 23 districts for endorsement. As a result, the July 10<sup>th</sup> submission showed 36 seats taken by the MPRP, 24 seats by the Democrats and one seat each by an independent candidate and a Civil Coalition representative. In this case, no parliamentary majority was formed which affects power distribution inside the parliament and Government composition. However, according to its July 14<sup>th</sup> resubmission, 39 seats went to the MPRP, making it a majority, and 26 seats to the Democrats, while the other 2 seats remained unchanged.

On the first plenary session of the new Parliament attempted on July 23<sup>rd</sup> it became clear that the GEC had breached the *Election Law* by issuing a second submission without holding a Committee meeting and not issuing an official resolution on this decision. The DP left the plenum, thus stalling the further proceedings of the new parliament.

The DP proposes to endorse the first submission, grant amnesty those arrested in relation to the July 01 unrest, and reverse the Constitutional amendments of 2000 which, among other things, lowered the quorum for the parliament from a 2/3 majority to a simple majority, allowing the adoption of legislation by fewer than one third of the parliamentarians. If these changes were to be reversed, the DP would become a very strong opposition and would have real power to support or block parliamentary decisions.

The MPRP and the DP have formed a working group in order to reach consensus on the aforementioned issues.

Overall, Mongolia is now standing on the crossroads, and the steps taken at this moment will have long-term implications for further development of Mongolia's democracy. Those who are responsible for the breach of the election integrity, human rights violations, the use of firearms resulting in 4 deaths, as well as the failure of the National Public Service Broadcast to remain apolitical and non-partisan shall be held accountable in order to restore public faith in democracy and justice in this country.