

**Submission by The LGBT Centre, Mongolia**

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*Though the upcoming report may not directly address the inquiries put forth by the Special Rapporteur, the inclusion of a concise introduction and relevant supporting cases serves as a valuable supplement, augmenting the overall impact of the report. Should you have additional questions or require further clarification, please feel free to reach out to the LGBT Centre at* ***edirector@lgbtcentre.mn****. Your attention and consideration are greatly appreciated. Thank you.*

**Introduction**

Introducing the challenges faced by LGBTQI+ individuals in accessing fair legal representation in Mongolia unveils a multifaceted struggle deeply rooted in societal norms and systemic deficiencies. While Mongolia has garnered praise for its strides toward a democratic society, it falls short in upholding the rights of LGBTQI+ persons, grappling with pervasive discrimination based on sexual orientation and gender identity (SOGI).

Discrimination permeates various sectors, including justice, education, and health, propelled by weak enforcement of anti-discrimination laws, public statements by extremist groups, politicians, and media figures, as well as entrenched negative attitudes. LGBTQI+ individuals in Ulaanbaatar and beyond endure structural discrimination, violence, economic disparities, restricted healthcare access, and mental health challenges. Studies reveal elevated risks of unemployment, poverty, depression, and suicidal thoughts within this community.

Although Mongolia has made legislative strides, notably with the pivotal 2015 Criminal Code, Article 14.1, the practical application remains elusive. The LGBT Centre vigilantly monitors its implementation, revealing a lack of awareness among justice and judicial actors, compounded by the enduring societal stigma, hindering LGBTQI+ citizens from reporting cases.

The legal landscape, despite some progress, requires further protective measures to genuinely secure LGBTQI+ rights. Existing protections, such as the amended Article 14 of the Criminal Code, face uneven implementation, with documented cases revealing dismissals and challenges in addressing discrimination. Hate crime legislation similarly grapples with implementation hurdles, exemplified by the Supreme Court's ruling against a transgender victim despite compelling evidence.

Discrimination extends beyond legal realms into healthcare, where LGBTQI+ Mongolians encounter additional barriers. The prevailing lack of healthcare providers trained on LGBTQI+ health needs exacerbates this issue. Sub-communities within the LGBTQI+ spectrum, such as transgender individuals, face particular challenges, including stigma surrounding gender transitions and reproductive healthcare. Despite advocacy efforts by the Centre, significant gaps persist in providing trans-specific care and hormone therapy for gender transition.

Addressing these challenges necessitates proactive measures from the Mongolian government. The LGBT Centre's call for a comprehensive, sustainable human rights training program focused on LGBTQI+ rights, hate crime, and anti-discrimination for justice and judicial actors highlights the urgent need for systemic change. Despite international recommendations, Mongolia is yet to fulfil its obligations, emphasizing the pressing need for action to ensure fair legal representation and broader societal inclusion for LGBTQI+ individuals in Mongolia.

Presented below are recent cases to demonstrate the active roles that Lawyers, Prosecutors, Judges, and Community Justice Workers in safeguarding democracy and upholding fundamental democratic rights in Mongolia.

**Case 1: Administrative Trial Court in 2023, *inre* Freedom of Peaceful Assembly of LGBTQI + citizens.**

The LGBT Centre brought forth a legal challenge against the Admission of the Sukhbaatar District in Ulaanbaatar city. The case centered around the district's erroneous decision to register the Equality March, organized by the LGBT Centre as part of the 11th Equality and Pride Days. Regrettably, during the proceedings, disturbing instances of prejudice and harassment unfolded, revealing systemic challenges within the judicial system.

The court proceedings took a distressing turn when the defendant's representative, rather than engaging in a substantive defence, resorted to a dismissive and derogatory remark. The representative asserted, "Nowadays, they are just taking cases to courts, so annoying," creating an atmosphere of disrespect for the legal process. Shockingly, the presiding judge failed to intervene and instead allowed the defendant to persist in harassing the LGBT Centre representative for asserting their right to access justice and judicial tools.

The judge's passive stance not only undermined the decorum of the courtroom but also violated the principles of impartiality and fair treatment. A judiciary should be a bastion of justice, free from personal biases or disdain towards individuals seeking legal recourse.

Furthermore, the judge's line of questioning demonstrated a concerning bias against the LGBTQI+ community. The judge, seemingly sceptical of the motives behind the chosen date for the Equality March, demanded that the LGBT Centre justify organizing the march close to the first day of school. This line of inquiry not only questioned the legitimacy of the peaceful assembly but also perpetuated a prejudiced assumption that there could be an ulterior motive behind the timing of the event.

Such prejudicial behaviour within the courtroom raises serious concerns about the impartiality and commitment to justice within the administrative trial court. It underscores the urgent need for judicial training on issues of diversity and inclusion, emphasizing the importance of respecting individuals' rights to peaceful assembly regardless of their sexual orientation or gender identity. Efforts should be made to foster an environment where all parties, including LGBTQI+ individuals and their representatives, can access justice without fear of discrimination or bias.

**Case 2: Criminal Trial Court, 2019. Defending a transgender woman against ultranationalist leader**

An illustrative example occurred during a criminal case where an attorney, hired by the LGBT Centre to defend a transgender woman. Unfortunately, the attorney encountered numerous obstacles tied to the defence of a transgender client.

One prominent challenge involved the attorney being subjected to harassment and intimidation. Strangers followed the attorney, creating an atmosphere of unease and insecurity. Moreover, within the confines of the court hall, the attorney experienced physical aggression, with strangers intentionally pushing and bumping into him. This not only jeopardized the attorney's personal safety but also created a hostile environment that hindered the fair administration of justice.

Furthermore, the attorney faced derogatory remarks from court staff, revealing an insidious layer of discrimination. The derogatory comments included offensive language such as being referred to as "homo" and being labeled as "disgusting." These slurs not only targeted the attorney's sexual orientation but also violated the principles of professionalism and respect expected within a courtroom setting.

Importantly, the discrimination extended to insinuations about the transgender woman the attorney was defending. Court staff whispered stigmatizing comments, suggesting that the defendant was a sex worker. Such remarks not only perpetuated harmful stereotypes but also compromised the dignity and rights of the transgender woman on trial.

It's crucial to note that these challenges were exacerbated by elements of gender bias and prejudice. The attorney faced discrimination and harassment not only due to the nature of the case but also because of their association with defending a transgender individual. The mistreatment endured by the attorney highlights the urgent need for addressing systemic issues within the legal system, promoting inclusivity, and ensuring that lawyers can fulfill their roles without fear of discrimination based on gender, sexual orientation, or any other protected characteristics under human rights law.

### **Case 3: Refusal to open a criminal case by the prosecutors: The LGBT Centre v. Government official**

In September 2021, Deputy Secretary of Railroads and Transportation, Odsvren Badarch, ordered the removal of LGBT Centre’s public awareness campaign contents from public transportation. Odsvren posted a statement and photos on his personal Facebook account stating that   
 ‘....he had the paid advertisement removed from public transportation”

and posted photos of people removing our advocacy work. The LGBT Centre pursued a criminal case under the anti-discrimination provision of the criminal code. Unfortunately, in December 2022, the State Prosecutors Office did not approve to opening a criminal case against the Deputy Secretary.   
  
In addition, the Centre reported the incident to the National Human Rights Institution (MNHRI). The MNHRI investigated the case and determined that the government agent indeed discriminated against the LGBT Centre, LGBTQI+ community, and human rights defenders. They issued three orders to the Major of the capital city, Ulaanbaatar; 1) redress all financial loss of the LGBT Centre 2) have the government agent, Odsvren make a public apology, and 3) Educate government agents on the 2021 Legal Status of Human Rights Defenders Law. Unfortunately, to this date, the first two orders are not fulfilled by the major, and the LGBT Centre continues to pursue the case both under MNHRI and the justice system.

Out of the three orders, only 3) Educate government agents on the 2021 Legal Status of Human Rights Defenders Law was fulfilled.

**Case 4: Online Hate Crime - 2022 to Present: Targeting Gay and Bisexual Men on Facebook**

The disturbing online hate crime involving the Facebook page "Glory Glory" has persisted unabated from 2022 to the present, specifically targeting gay and bisexual men. The modus operandi of this page involves maliciously outing individuals and exposing their photos, leading to significant distress within the LGBTQI+ community.

Despite the severity of this violation, the LGBT Centre has diligently pursued all available remedy mechanisms within Mongolia, engaging the police, prosecutors, the National Human Rights Commission, and the Communication Regulatory Commission of Mongolia. Notably, even Meta, the parent company of Facebook, has been contacted in an effort to address the issue. However, regrettably, no resolution has been achieved, and no tangible actions have been taken to safeguard the targeted gay and bisexual men.

The gravity of the situation is underscored by the continuous influx of complaints from community members, highlighting the genuine threats posed by the "Glory Glory" Facebook account to their lives. Astonishingly, the page currently displays the photos of over 5000 individuals, intensifying concerns about privacy, safety, and the well-being of the affected community.

A disconcerting aspect of this case is the apparent lack of understanding within the justice sectors regarding the substantial threat it poses to the LGBTQI+ community. Despite the outreach and advocacy efforts by the LGBT Centre, the urgency and severity of the issue seem to be overlooked or underestimated by the authorities. This not only raises questions about the effectiveness of existing legal frameworks but also underscores the pressing need for enhanced awareness and sensitivity within the justice system concerning online hate crimes targeting marginalized communities.

**In conclusion,** safeguarding the rights of LGBTQI+ citizens is of paramount importance, and while Mongolia has made commendable progress in establishing a legal framework, a significant gap in implementation persists. To address this disparity, the government should develop a comprehensive program along with a robust implementation plan to effectively combat discrimination against LGBTQI+ individuals.

Throughout the cases detailed in this report, the attorneys and legal representatives engaged by the LGBT Centre consistently encountered bias from actors within the justice and judicial sectors at every step of the way.

As part of this proactive initiative, it is essential for universities and advanced training programs for legal professionals—encompassing lawyers, prosecutors, law enforcement officers, and judges—to incorporate specialized modules focusing on discrimination against LGBTQI+ people. Additionally, comprehensive coverage of hate crimes and hate speech should be integrated into these educational programs. This approach not only aims to heighten awareness but also seeks to equip legal practitioners with the knowledge and skills necessary to address the unique challenges faced by the LGBTQI+ community.

By seamlessly integrating these critical topics into the training curriculum, the government can foster a legal environment that actively works towards eliminating discrimination and upholding the rights of LGBTQI+ citizens. This proactive measure aligns with the broader objective of establishing an inclusive and equitable society, wherein the legal system plays a pivotal role in safeguarding the rights and dignity of all individuals, regardless of their sexual orientation or gender identity.