



## Centre for Human Rights and Development

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#### Take Action!

**CHRD provides legal advice to individuals and communities who are affected by damage to the environment.**

**If you think you may need legal advice about an environmental issue in your community, please contact us here at CHRD and we will do our best to help you.**

**You should also write to or meet with your local governor, inspection officer or MP about environmental issues that are concerning you.**

## CHRD ADVOCATE

Welcome to the fourth issue of CHRD's environmental advocacy newsletter!

### CHRD Case Update

#### **The first successful civil case on failure to perform environmental rehabilitation – Bayandun soum, Dornod aimag**

In September 2008 CHRD won a case in the Bayangol District Court concerning the failure of the Mongol Gazar mining company to rehabilitate 46.4 hectares of land in Bayandun soum, Dornod Aimag. Mongol Gazar had operated a gold mine on the land in the year 2003 and left it without carrying out any rehabilitation. The court ordered Mongol Gazar to rehabilitate the site. This decision follows an appeal by Mongol Gazar from a decision in the Ulaanbaatar City Court on 7 November 2008 ordering Mongol Gazar carry out rehabilitation.

This is a significant win as it is the first successful civil case on the issue of rehabilitation of mining sites in Mongolia. However, Mongol Gazar has lodged an appeal with the Supreme Court, which is likely to be heard in January 2009.

#### **Disputed Environmental Impact Assessment - Tsenkher soum, Arkhangai aimag**

CHRD filed a request to the Office of the implementation of Court Decisions in order to enhance the implementation of the Conciliation Agreement between the Ministry for Nature and Environment (MNE) and CHRD on June 12 2008. In accordance with the Agreement, the Ministry of Environment is obliged to appoint a Working Group to review the Environmental Impact Assessment (EIA) on the mining project carried out in Nariin Khamar of Tsenkher soum of Arkhangai province. The Agreement also states that if the Ministry does not fulfill its duty to review the EIA, it should withdraw its decision allowing the illegal EIA. However, the MNE has not been fulfilling such obligations under the Agreement.

Since the implementation of the Conciliation Agreement guaranteed by the court decision, CHRD filed the request to the respective state agency.

#### **Licensing Case in Zaamar soum withdrawn**

A dispute over a case granting an exploration license in Zaamar soum, Tuv aimag, was cancelled in February 2008 after the claimant withdrew from the case following unorthodox behaviour of the judge hearing the case. Since then, CHRD has located 5 new claimants, and has recommenced the case in the Ulaanbaatar Administrative Court. However, CHRD withdrew a claim due to tough rigorous court requirement regarding the evidence on claimant's ownership of the disputed land and to avoid claimants from the expenditure of court investigation that could have been possibly charged from them. CHRD has been analysing this case for further initiative.



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Welcome to donate to

### ENVIRONMENTAL JUSTICE FUND

CHRD creates Environmental Justice Fund to promote environmental justice, to protect herders' rights affected by illegal and destructive mining operation, to boost collective spirit for environmental protection among Mongolians and to generate alternative source for CHRD environmental advocacy activities.

We will accept donation from anyone, who are genuinely concern for the environment and human rights.

## CHRD News

### Environmental Public Interest Litigation workshop

A Workshop on Environmental Public Interest Litigation was conducted on 15-16 September 2008 by CHRD and Earth Justice, an American based independent law firm that carries out Environmental Public Interest Litigation. The main aim of the Workshop was to strengthen the capacity of Mongolian advocates working on environmental issues and public interest cases.

### CHRD lobbies for methodology for assessing environmental damages

After a year of advocacy attempts by CHRD, the Ministry of Nature and Environment has finally designed methodology for assessing environmental damages. Before its final approval, the methodology is being reviewed by the Ministry of Justice and Home Affairs. The methodology is essential for people who are victimised due to environmental degradation and pollution and by providing them with the possible account of the cost of the environmental damages on each components of environment such as forest, air, water, animals, plants, soil and sub soil and to claim compensation.

### Media coverage

*CHRD Profiled in the UB Post,*

*The UB Post*, an English language Mongolian weekly newspaper, published an article featuring a profile of CHRD's public interest environmental litigation work in its 5th June 2008 issue. For the full text of the article, see: <http://ubpost.mongolnews.mn>

*TV Program on Environmental Rights,*

A TV program on Environmental Rights prepared by CHRD and the Committee of the Ministry of Justice and Home Affairs on National Plan of Actions Enhancing Human Rights was broadcast by TV9 channels in the first week of September.

*CHRD published articles on illegal activities of mining companies,*

CHRD has issued a series of news articles on it's cases related to environmental degradation and pollution caused by mining activities through "Unuudur", one of the most popular daily newspapers in Mongolia. The purpose of this activity is to improve the accountability of respective state agencies and to enhance the public participation in environmental protection. Under the topic "Illegal activities of mining companies against environment", four articles have been published to date. The articles were published in the 161, 163, 166 and 169 issues of the newspaper in July 1008.



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### Legal Snapshot:

#### Do You Know.....?

The Constitution of Mongolia contains guarantees that are very important in the context of environmental protection.

Firstly, it guarantees that the citizens of Mongolia are guaranteed to enjoy 'the right to healthy and safe environment, and to be protected against environmental pollution and ecological imbalance' (16.2).

It confirms 'the right to appeal to the court to protect his/her rights if he/she considers that the rights or freedoms as spelt out by Mongolian law or an international treaty have been violated; to be compensated for the damage illegally caused by others' (16.14).

Finally, it guarantees the 'right to seek and receive information, except that which the state and its bodies are legally bound to protect as secret' (16.17)

### 'Strengthening Environmental Governance' Project News

Currently, CHRD has been implementing the project 'Strengthening Environmental Governance' funded by the GTZ in 2008-2009. The main purpose of the project is to contribute in strengthening environmental governance in Mongolia through improving the capacity of civil society and local people to participate in environmental decision making. The project consists of a series of activities including consultative meetings on environmental issues in Mongolia, research on citizens' access to environmental information and training amongst civil society organizations. In the fall of 2008, two consultative meetings were organized on the issues of environmental impact assessments and justiciability of environmental rights.

#### Consultative Meeting on Justiciability of Environmental Rights: Problems and Solutions.

On 16th December 2008, CHRD hosted a Consultative Meeting on *Justiciability of Environmental Rights: Problems and Solutions*.

The meeting widely discussed the challenges that law enforcement officials faces in addressing environmental cases and violations and identified solutions to these challenges. Judges, lawyers and representatives of civil society organizations involved in environmental issues and the government agencies participated in the Consultative Meeting. One of the vital issues discussed at the meeting was the lack of court cases involving violations of environmental laws despite these laws being violated on a nearly daily basis. This is partly due to the failure of the Special Protection Office to bring cases involving these violations before the courts. Another reason for this is inadequate public awareness on the legal avenues available to the public for addressing environmental law violations. At the end of the Consultative meeting, CHRD drafted recommendations and disseminated amongst meeting participants and other relevant stakeholders.

#### Consultative meeting on Environmental Impact Assessments

On 30th October 2008, CHRD hosted a Consultative Meeting on Environmental Impact Assessments (EIAs).

The meeting examined recent practices and problems in the implementation of the Law on EIAs and ways to solve these problems. The meeting included representatives from United Nations Development Program, Ministry of Environment and Tourism, Ministry of Roads, Transportation, Construction and Urban Development, Ministry of Minerals and Energy, Water Agency and Association of Organizations developing EIAs and other stakeholders.

Based on input from participants, CHRD has finalized the recommendations on improving EIAs. The recommendations focus on issues such as encouraging the establishment of proper procedures for citizens' participation, avoiding conflicts of interest in the performance of Experts Committee members of EIA at the Ministry of Environment and improving the quality of EIA company performance. The recommendations have been submitted to the Working Group for drafting amendments to the law on EIAs.



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### CHRD Thanks to International Partners and Friends

#### *International Senior Lawyers Project*

CHRD has been cooperating with International Senior Lawyers Project for last 3 years.

Mr. Robert Mansell, an environmental lawyer from Canada, volunteered at the CHRD through the International Senior Lawyers' Project for three months until October 2008. Mr. Mansell greatly helped to CHRD in improving Module of Community Benefit Agreement with mining companies, CHRD proposal to amend Environmental Impact Assessment Law focusing on participation and environmental rehabilitation standards. Mr Mansell's professional advice and expertise on conducting litigation was very helpful to CHRD lawyers to conduct successful court case in environmental rehabilitation case in Bayandun soum of Dornod aimag.

#### *Australian Youth Ambassador in Development Program*

CHRD has been receiving young lawyers through Australian Youth Ambassador in Development (AYAD) Program for last 3 years.

Ms Gillian Duggin young lawyer from Australia volunteered at CHRD in August 2007- July 2008. Gillian was assisting in all of program activities on environmental advocacy particularly greatly contributed in enhancing the knowledge and skills of lawyers about the use of strategic litigation, undertaking advocacy work for the improvement of environmental damage valuation standards, fund raising and strengthening international cooperation and networking. Her articles on public interest litigation can be found in 1, 3, 6 and 8 issues of the Advocate's Journal of Association of Mongolian Advocates, in 2008.

#### *Kirby Simon Summer Human Rights Fellowship Project, Yale Law School*

Ms Alisha Bjerregaard, Kirby Simon Summer Human Rights Fellow of Yale Law School has volunteered at CHRD in June-August 2006. During her fellowship, she conducted research project on Gender and Mining: An Assessment of the Impact of Gold Mining on Women in Mongolia. The research report assesses how Mongolia's rapidly expanding gold mining industry affects women. Over the past few years, there has been a growing awareness in Mongolia of the negative effects of mining if it is allowed to continue to develop unchecked, without policies or legislation in place to protect human rights and the promote sustainable development. Although various organizations have done initial reports regarding issues such as occupational safety and health in the Mongolian mining industry, this is the first report to focus specifically on the impact of mining on women and women's rights in Mongolia.

Now the final research report available and anyone interested to look at this report please contact with CHRD.

**CHRD is an independent non-government, non-partisan and not-for-profit organization. CHRD's primary goal is to contribute to the promotion and protection of human rights and to promote social justice in Mongolia.**

**See our website at [www.chrd.org.mn/english/](http://www.chrd.org.mn/english/) for more information on CHRD.**

**If you would like to receive our regular newsletters by email, please email us at [chrd@mongolnet.mn](mailto:chrd@mongolnet.mn).**