



July 17, 2009

Mr. Ts. Nyamdorj, Minister of Justice and Home Affairs of Mongolia

Dear Minister Nyamdorj,

On behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC), I call on you to recognize and register the Lesbian, Gay, Bisexual and Transgender Centre (LGBT Centre) from Ulaanbaatar, Mongolia. After at least ten attempts by LGBT Centre to register in 2009, the Legal Entities Registration Agency (LERA) has made several specious arguments to as to why it can not be registered, including objecting to the use of an English name transliterated into Cyrillic, arguing that the name is “not moral and the public would not accept it,” and stating that the name conflicts with “Mongolian customs and traditions and has the potential to set the wrong example for youth and adolescents,” in a rejection letter on June 23rd. To continue to deny this group’s application for arbitrary and discriminatory reasons would violate the human rights of the group’s membership and founders, under international law as well as Mongolian law.

The Lesbian, Gay, Bisexual, and Transgender Centre will be the first NGO in Mongolia dedicated to social, legislative and institutional change in relation to discrimination, persecution, and abuse against Mongolia’s LGBT community. Its mission is to “uphold, protect, and promote the human rights of sexuality minorities, namely lesbians, gay men, bisexuals, and transgendered persons” and “to promote the correct understanding of sexual orientation and gender identity within Mongolian society.” By denying this group registration based on its chosen name, based on its mission to promote the human rights, or arbitrarily, Mongolia is violating the rights to freedom of opinion and expression, to assembly and association, and to promote human rights, without discrimination based on sexual orientation or gender identity.

Discrimination on the basis of sexual orientation or gender identity is impermissible under international law. The Human Rights Committee affirmed in its decision in *Toonen v. Australia* (1994) that existing protections against discrimination in Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR), to which Mongolia is a signatory, include sexual orientation as a protected status.¹ Other international mechanisms have additionally specifically addressed the obligations of States in the context of the rights to freedom of opinion and expression, to assembly and association, and to promote human rights without discrimination based on sexual orientation and gender identity, such as the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the right to freedom of opinion and expression, the United Nations High Commissioner for Human Rights, and the Committee Against Torture.

The LERA refusal to register the LGBT Centre based on their chosen name, arguing that it is counter to morality and Mongolian culture and a threat to youth, is a **violation of the right to**

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freedom of opinion and expression without discrimination based on sexual orientation and gender identity, ensured by Article 19 of the Universal Declaration of Human Rights (UDHR) and the ICCPR, as well as other human rights treaties.² To ensure this right, **States must ensure nondiscrimination in advocacy for legal rights, as well as other activities central to the functioning of NGOs such as the LGBT Center**, including organization of conferences, publication of materials, and dissemination of safer-sex information.³ Furthermore, **States must ensure that notions of public order, morality, health, or security are not employed to restrict, in a discriminatory manner, any exercise of freedom of opinion and expression that affirms diverse sexual orientations and gender identities.**⁴

Denying registration and accreditation to the LGBT Centre moreover **violates group members' rights to association and to promote human rights without discrimination based on sexual orientation and gender identity** under UDHR Article 20, ICCPR Articles 21-22, other human rights treaties,⁵ and the Declaration on Human Rights Defenders Articles 1 and 5. **States must ensure the right to form and have recognized, without discrimination, associations** based on, that distribute information about, facilitate communication among, or advocate for the rights of persons of diverse sexual orientations and gender identities.⁶ States must not restrict these rights for reasons of public order, morality, health and security.⁷ States must also **ensure that human rights defenders are protected from all discrimination or any other arbitrary action by the state** in response to their human rights activities⁸ and States must **support the recognition and accreditation of organizations that promote and protect the human rights** of persons of diverse sexual orientations and gender identities.⁹

To fulfill its obligations under international law, Mongolia must allow the LGBT Centre to register and under the name 'Lesbian, Gay, Bisexual, and Transgender Centre.' IGLHRC calls on you to support the LGBT Centre's appeal and to protect the rights to freedom of opinion and expression, to peaceful assembly and association, and to promote human rights of all people in Mongolia, including lesbian, gay, bisexual, and transgender people.

Sincerely,



Cary Alan Johnson
Executive Director, IGLHRC

CC:

Mr. G. Bayasgalan, State Secretary of Justice and Home Affairs of Mongolia

Ms. T. Altangerel, Director of Policy Implementation Coordination Department of Mongolia

Ms. D. Solongo, Chief Commissioner of the National Human Rights Commission of Mongolia

The International Gay and Lesbian Human Rights Commission's mission is to advance human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, and gender expression. A non-profit,

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non-governmental organization, IGLHRC is based in New York, with offices in Cape Town and Buenos Aires. www.iglhrc.org

¹ Other bodies to treaties require nondiscrimination on the basis of sexual orientation or gender identity such as the Committee on Economic, Social and Cultural Rights, General Comment No. 20 and Committee Against Torture, General Comment No. 2.

² International Covenant on Economic, Social and Cultural Rights, Article 2(2); International Convention on the Elimination of Racial Discrimination, Article 5(d)(iii); The Convention on the Rights of the Child, Articles 2 and 13.

³ U.N. General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms [Declaration on Human Rights Defenders], adopted by General Assembly resolution 53/144, 9 December 1998, Art. 6; Human Rights Council [HRC], Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, para. 511; and Commission on Human Rights [CHR], The right to freedom of opinion and expression, Report of the Special Rapporteur, Ambeyi Ligabo, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. E/CN.4/2006/55/Add.1, 27 March 2006, para. 1046,1048.

⁴ CHR, The right to freedom of opinion and expression, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. E/CN.4/2004/62/Add.1, 26 March 2004, para. 488.

⁵ Convention on the Elimination of Discrimination Against Women, Article 7(c); International Convention on the Elimination of Racial Discrimination, Article 5(d)(ix); The Convention on the Rights of the Child, Article 15.

⁶ HRC, Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, U.N. Doc. A/HRC/4/37, 24 January 2007, para. 96; HRC, Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, paras. 61, 454, and 511; U.N. General Assembly, Human rights defenders: Note by the Secretary-General (report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, in accordance with General Assembly resolution 60/161), U.N. Doc. A/61/312, 5 September 2006, para. 71; CHR, Report submitted by Ms. Hina Jilani, Special Representative of Secretary-General on human rights defenders, pursuant to the Commission on Human Rights resolution 2000/61, U.N. Doc. E/CN.4/2002/106, 27 February 2002, para. 61; CHR, Report submitted by Ms. Hina Jilani, Special Representative of the Secretary-General on human rights defenders in accordance with Commission resolution 2000/61, U.N. Doc. E/CN.4/2001/94, 26 January 2001, para. 89(g); and International Conference on LGBT Rights, Keynote address by Louise Arbour, the UN High Commissioner for Human Rights, Montreal, Canada, 8 July 2006.

⁷ HRC, Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, U.N. Doc. A/HRC/4/37, 24 January 2007, para. 96; HRC, Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, paras. 402, 559, and 686. CHR, Report of the Special Representative of the Secretary-General, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. E/CN.4/2006/95/Add.1, 22 March 2006, para. 550.

⁸ Declaration on Human Rights Defenders, Arts. 7 and 12, Human Rights Council, Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, para. 454; CHR, Report of the Special Representative of the Secretary-General, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. E/CN.4/2006/95/Add.1, 22 March 2006, para. 291; CHR, Report submitted by Ms. Hina Jilani, Special Representative of Secretary-General on human rights defenders, pursuant to the Commission on Human Rights resolution 2000/61, U.N. Doc. E/CN.4/2002/106, 27 February 2002, paras. 61, 83 and 115;; Human Rights Council, Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, U.N. Doc. A/HRC/4/37, 24 January 2007, paras. 94-96; Human Rights Council, Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, para. 485; and CHR, Report submitted by Ms. Hina Jilani, Special Representative of the Secretary-General on human rights defenders, pursuant to Commission on Human Rights resolution 2000/61, Addendum: Mission to Colombia (23-31 October 2001), U.N. Doc. E/CN.4/2002/106/Add.2, 24 April 2002, para. 173.

⁹ See, CHR, Report of the Special Representative of the Secretary-General, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received, U.N. Doc. E/CN.4/2006/95/Add.1, 22 March 2006, para. 550.