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MONGOLIA HEADS FOR PRESIDENTIAL ELECTION UNDER SHADOW OF CRACKDOWN ON POLITICAL OPPONENTS

Mongolia's upcoming presidential election in June 2021 will take place amid a worrying human rights situation in the country where the right to freedom of expression is severely restricted, especially of those who speak critically about government actions. Amnesty International is concerned that more arrests and detention could take place before and after the June 2021 presidential elections as the government continues to repress dissent in the country.

Last year, prior to the 24 June 2020 national parliamentary elections, several individuals were arbitrarily detained for expressing criticism of the government. These individuals include well-known politicians belonging to different political parties running for office, lawyers and leaders of non-governmental organizations who criticized the authorities over issues such as human rights and corruption. Other political figures, such as former Prime Minister Enkhsaikhan Mendisaikhan, were also detained.

The authorities detained at least six candidates from different political parties, including former Prime Minister Jargaltulga Erdenebat, former Deputy Prime Minister Davaadorj Ganbold and former Mongolian Minister of Labour and Social Protection Nomtoibayar Nyamtaishir. After the elections, they were found guilty of abuse of power by district courts and sentenced to terms in prison from four to six of years.

Amnesty International maintains that any person, whether seeking political office or not, should be allowed to engage freely in public debate concerning issues in the political domain or public institutions. They should not be arrested, detained, or subjected to unfair trials merely for exercising their right to freedom of expression.

Jargaltulga Erdenebat faced charges for allegedly giving undue advantage to certain companies by granting them mining licenses during his term as prime minister between 2016 and 2017. Nomtoibayar Nyamtaishir was charged for unlawfully "offering privileges" to more than 20 business and individuals, also between 2016 and 2017, through interest-free loans as part of a rural development programme.

Many of the individuals who were arrested and detained suffered violations of their rights to a fair trial and to be protected against ill-treatment during their detention, including by being detained for weeks without being charged or brought to court. According to Tselmuun Nyamtaishir, sister of Nomtoibayar Nyamtaishir, her brother was detained for four weeks in solitary confinement and was not allowed to communicate with his lawyer before his first trial on 26 June 2020.

In the case of Jargaltulga Erdenebat, the court asked for an unprecedented bail of 10 billion Mongolian Tugriks (approximately US\$3.5 million), which was almost 100 times his annual income when he was a public servant. Before this case, the usual maximum size of a bail in Mongolia was between the equivalent of US\$40,000 and \$80,000. The judicial procedures in the first-instance trials of these parliamentary candidates lasted fewer than 10 days, and did not follow due process, according to the lawyers and the families of the defendants. They were also not open to the public, with COVID-19 prevention being the named reason. The lawyers of Jargaltulga Erdenebat and Nomtoibayar Nyamtaishir were given virtually no time for preparation. They asked to postpone the trials, but the district courts deliberating their cases refused.

Davaadorj Ganbold's lawyer first contacted Amnesty International on 27 June 2020, and reported his detention which began on 18 June that year, six days ahead of the parliamentary elections. He was sentenced to four years in prison on 17 July 2020. He made an appeal to the Supreme Court on 30 December 2020, but no hearing date has been set to

date. His family expressed concern regarding his health, as he was held at a prison that was affected by the spread of COVID-19.

Earlier legislative amendments that gave power to the National Security Council to remove chief judges, heads of the prosecution office and heads of the anti-corruption agency threatened judicial independence and the separation of powers in Mongolia. This council includes the President, the Prime Minister and the speaker of the Parliament. In June 2019, 17 judges and chief justices were removed immediately after this amendment. The Chief Justice of the Supreme Court was also replaced on 20 May 2020, one month ahead of the parliamentary elections. According to persons interviewed by Amnesty International, some of the newly appointed chief judges may have exerted pressure on the judges at the district courts concerned.

The presidential election coming up in June 2021 is the first to take place after the constitutional amendments in 2019, which increased the term of the Mongolian president from four to six years, while nullifying the possibility of re-election. There was debate on whether incumbent President Khaltmaagiin Battulga may stand to be re-elected for a second term of now six years if nominated by his party, but the Constitutional Court of Mongolia ruled against this possibility on 16 April, and the Parliament voted to accept this ruling six days later.

There was a positive development in March 2021 when the National Security Council lost its powers to remove chief judges after another legal amendment. Jargaltulga Erdenebat was also released in the same month, after the Supreme Court overturned the rulings of previous courts in January. He earlier won a seat in parliament during the June 2020 elections, while he was still detained. Nomtoibayar Nyamtaishir was released on 1 April 2021 after the Supreme Court dismissed his initial charge due to lack of evidence, although he was also found guilty of negligence in the performance of his duty by the same court. He did not win a seat in the June 2020 elections.

Several other politicians, including Davaadorj Ganbold and Enkhasaikhan Mendsaikhan, were still kept behind bars. They should be freed, unless found guilty of an internationally recognized criminal offence, through judicial procedures that meet international standards of a fair trial. Any appeal must be heard at the relevant higher court level within reasonable time, for an effective and genuine review and ruling without undue delay, and full respect for all other fair trial rights.