



# **HUMAN RIGHTS IN SMALL-SCALE MINING SECTOR**

**- Bayankhongor, Govi-Altai, and Khovd Provinces -**

REPORT OF HUMAN RIGHTS MONITORING AND ADVOCACY ACTIVITIES

**Ulaanbaatar city. 2013**

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# Acronyms

MRA	Mineral Resource Authority
AM	Artisanal miner
NHRCM	National Human Rights Commission of Mongolia

# INTRODUCTION OF THE MONITORING AND ADVOCACY ACTIVITIES

National Human Rights Commission of Mongolia (NHRCM) conducted inquiry named “Small-scale mining and human rights in Mongolia” along with the project and introduced the outcome of the inquiry at the “Mining business and human rights in Mongolia” international conference, organised in October 2012.

This report discusses the monitoring and advocacy activities conducted by the National Human Rights Commission of Mongolia from June to August 2013 in Bayankhongor, Govi-Altai, and Khovd provinces with the funding of the “Sustainable small-scale mining” Project of the Swiss Agency for Development and Cooperation.

The monitoring and advocacy activities covers the following issues:

**1. Within the scope of the activities to assess and comment on the activities of the local government organizations and authorities on small-scale mining in local areas:** to get information on the requests submitted by partnerships to the Citizens’ Representatives Councils of the soums to run activities extract minerals through small-scale or artisanal mining and on the manner how they decided the areas which were decided to be taken into the local special needs with the purpose of small-scale mining, to examine whether the Citizens’ Representatives Council announce its decisions and monitor their implementation, to review сумын, to review how the individuals who are going to extract mineral resources through small-scale mining have been provided with legal advice and assistance to become organized as a partnership, to review unified cartographical register of the areas issued for the purpose of small-scale mining and the data on extraction process, to examine social welfare services provided for small-scale miners, and to examine how the tax and insurance issues of the small scale-miners are handled.

**2. Activities conducted in reviewing the activities partnerships carried out with respect to small-scale mining:** to examine the actions undertaken in environmental remediation and relevant reports and to review how the shared fund for environmental remediation is spent.

**3. Activities undertaken in reviewing the activities and organization structure of small-scale miners:** To study on the small-scale miners who are organised as unregistered partnerships and artisanal miners who haven’t been organised as such, to examine whether children are employed in small-scale mining, to review how rules and regulations of labour safety and hygien are implemented, to examine whether chemical hazardous substances and dangerous goods are used in mining activities, and to review whether small-scale miners can get access to the social welfare and medical services provided by the state.

**4. Educational and promotional activities undertaken for the local government, authorities, and law engorcement officers:** To conduct training on

relevant topics such as the activities of the NHRCM, human rights basic concepts, human rights-based approach, and legislation on small-scale mining and its unique regulation, and free legal counseling.

NHRCM considers this study and monitoring activity has become important in collecting necessary data and information to develop and deliver recommendations for the relevant organizations to improve legislation of small-scale mining based on human rights perspective and to resolve the urgent problems, ensure their implementations, and improve human rights awareness of authorities and public servants.

# ONE.

## ACTIVITIES OF LOCAL AUTHORITIES AND ARTISANAL AND SMALL-SCALE MINERS

NHRCM conducted study and monitoring activities funded by “Sustainable smale-scale mining” project of the Swiss Agency for Cooperation and Development by selecting 8 soums of Bayankhongor, Govi-Altai, and Khovd provinces namely Bayan-Ovoo soum(Bayankhongor province,) Yesunbulag, Biger, Chandmani(Govi-Altai province,) Altai, Uyench, Bulgan, and Durgun soums(Khovd province), in which artisanal mining activities are run.

While working in these soums, the NHRCM aimed to assess the implementation of the Law of Mongolia on Mineral Resources and the “Regulation on the Extraction Operation of Minerals from Small-Scale Mines” adopted by the Resolution 308 of the Government of Mongolia in 2010 from human rights perspective and focus on further urgent issues that require solution.

### **Bayan-Ovoo soum, Bayankhongor province**

The NHRCM team worked in Bayan-Ovoo soum, Bayankhongor province from 03-05 June 2013.

When the NHRCM started working in the soum, the Emergency Commission of the province had had a meeting on 2 May 2013 considering the information given by the Police division and Emergency management division on illegal activities using mercury near the food market within the zone “A” of the provincial capital. In this regard, D.Jargalsaikhan, Governor of Bayankhongor province released Order 263 on that day.

As stated in the order, a working group headed by the D. Ganbayar, Deputy Governor of Bayankhongor province comprising 13 members such as Head of the Emergency Management Division, Director of the Specialised Inspection Department, and Director of Health Department was established to resolve the problem and implement the relevant measures.

In connection with the release of this order, several government organisations<sup>1</sup> were tasked to undertake measures to stop gold extraction activities of smale-scale miners for two weeks until the range of damage and spread of the mercury and the perpetrators are identified.

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<sup>1</sup> Police division, Specialised inspection office, Emergency management office, and Environmental department



The NHRCM team, together with J.Purevsuren, Governor of Bayan-Ovoo soum, drove through the territory where small-scale mining activities are carried out, organized interviews with artisanal miners, and conducted survey among them.

Although the two week ban issued by the provincial governor had expired, the governor of the soum released Order 46 dated 27 May 2013 to temporarily stop the mining activities until the taxes of the partnerships get paid and each member of the partnership are involved in social and health insurances.

As explained by the governor, the partnerships working in the territory of the soum usually do not follow due process to conduct remediation according to the guidelines, have the assessment released by the State Environmental Inspector, and hand over the field to the local authority.

The NHRCM team examined the activities of the “Association for Artisanal Miners” NGO that operates in Bayan-Ovoo soum and documented the situation of the field used and left behind without remediation with photos.

There is clear difference between the way how both parties assess and evaluate the situation. The governor is critical that after the contract on the basis of which the small-scale miners extracted mineral resources expired and it was clear that it would not extend, they left the used area without conducting remediation and there is high risk of animals and people falling into the pits and ditches which the small-scale miners left behind and get injured. On the other hand, the small-scale miners explains they submitted a request to extend the contract, and it is possible to extract gold from the pits and ditches. As stated in the Article 15 of the “Labour Safety Rules of Small-scale Mining Operation,” adopted by the Annex 5 of the Order

153 of the Director of the Authority for Mineral Resources dated 2011, empty spaces of mining sites shall be secured by way of backfilling, building a fence, and putting caution signs. Thus, it is important that the governor work by requiring the partnerships backfill the aforementioned used mining sites as soon as the mining activity ends. Even though



Picture № 1, 1 Area that is said to have been biologically remediated after smale-scale mining activity.

the NHRCM examined the remediation processes, the governor said the areas which did not undergo remediation process occupy larger percent.

He also added there are partnerships and artisanal miners actively working in the areas named Altan us and Tashaa, but they also do not abide their obligation to undertake remediation. Beside this the NHRCM team received information on the facts that environment around the areas where the small-scale mining activities are carried out is full of waste, the people working there usually defecate publicly, and the activity of drawing the fees of income tax and social and health insurances in time is in insufficient level.



Picture №3 Meeting with local small-scale miners

In addition, the Citizens' Representatives' Council released a decision to take the area of 100 hectares that didn't underwent remediation into the local special needs for the purpose of small-scale mining according to the Clause 16.1.11 of the Law on Land<sup>2</sup>. Thus, it established coordinations in the area selected for the special local needs and had the Mineral Resources Authority make conclusion according to the Clause 11.1.23 of the Law on the Mineral Resources. In this regard, the governor explained they plan to select the business entities to conduct remediation based on the proposals of the Citizens Assembly of the bag.

The interview and meeting involved the small-scale miners such as Mr. Otgonbaatar, head of the "Association for Artisanal Miners" NGO. They exchanged views with the NHRCM team on the most urgent problems they have such as the issues of equipments and machineries. They criticized the Article 40 of the "Labour Safety Rules of Small-scale Mining Operation," adopted by the order 153 of the Director of the Mineral Resources Authority dated 2011, which states, "internal-combustion engine that is larger than 500cc shall be prohibited in the operation of small-scale mining," results in the situation in which they have to use only the artisanal mining method in surface and sub-surface mining. They explained the areas with rocky conformation require the use of machineries with larger measure, so the aforementioned provision should be revised in compliance with the reality.

The governor gave some information on the several factors that affect the environment in the soum. The trucks carrying coal from Galuut soum, Bayankhongor

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<sup>2</sup> Clause 11.1.23 of the Law on the Mineral Resources "as specified in the Clause 12.1.5 of this law to receive the request of the governor of soum and district and make conclusion on whether area selected is wholly or partially overlapped with the areas are prohibited to prospect, explore, and extract mineral resources, taken into the special needs or reserve, and/or already issued with effective special licences, and to determine the size and frontier of the area"



province through Bayan-Ovoo soum cause damages to environment. Funeral ceremony to lay the deceased in open place increases the risk of stray dogs bringing carrion left from the corpses to the capital of the soum. Also it is the waste of the small-scale miners that is the main cause of environmental pollution.

The NHRCM team conducted survey among 41 persons who carry out artisanal mining activities in the soum.



Picture №5 Artisanal miners filling a survey form

### **Yesunbulag soum, Govi-Altai province**

The NHRCM team worked in Altai soum, the capital of Govi-Altai province and Yesun bulag soum from 06-07 June 2013. The partnership registered in Yesunbulag soum does not carry out any activity. Therefore, currently there is not an area selected for the purpose of small-scale mining with determined coordinations. However, the NHRCM team visited a site located in the distance of 3 km from the capital soum where artisanal miners gathered in a few number and were extracting gold and conducted survey among them.



Picture №4 Artisanal miners working in Yesunbulag soum, Govi-Altai province

The area where these people were extracting gold is an old mining site left behind without remediation process conducted. According to the State Environmental Inspector, there are 20-30 individuals extracting gold through artisanal mining at the site.

The artisanal miners participated in the survey in a relatively active manner and exchanged views with the NHRCM team on the problems they face. While the NHRCM worked in the soum, it was identified that it is possible to organize the few number of small-scale miner individuals into 2-3 unregistered partnerships if the Citizens'

Representatives' Council releases the relevant decision as stated Clause 3.1 of the "Regulation On Extraction Operation Of Minerals From Small Scale Mines."

Artisanal miners working in Yesunbulag soum are permanently unemployed young families and retired elderly persons. The amount of gold they extract is relatively little, and they say an average person extracts gold that costs 10-15 thousand tugriks a day. At the soum's level there has not been any cartographical registration on the areas issued for the purpose of small-scale mining and data on extraction registered.

The NHRCM team conducted survey among the artisanal miners working in the area with gold containing layer which previously had been used as a mining site located in the distance of 4 km from the capital of the soum, and total 21 persons were involved in the survey.

### **Biger soum, Govi-Altai province**

NHRCM worked in Biger soum on 10-11 June 2013.

At that time the overnor of the soum had gone to work in the bags, and the Commissioner Oyunchimeg Purev had a meeting with the deputy governor and chairman of the Citizens' Representatives' Council and got informed on the situation of the artisanal miners working in the soum. The NHRCM team was informed that the area where the artisanal miners are working is remnant of the old placer mining deposit, and the artisanal miners are working in the worst labour condition with dusty and suffocative environment.

When the recovery of the gold in this soum is relatively higher than that of other places, the number of the artisanal miners reached 45000, but currently the number of artisanal miners who sustainably and actively work has decreased significantly. In addition, there is not statistical data and registration on the artisanal miners.

When the NHRCM visited the place named "Serghiin Nuruu" where small-scale mining activities are organised and examined 2-3 valleys of the mountain, a few number of people were setting up their tents and digging. Even though people used to conduct active mining operation in several valleys of the mountain, their number has decreased now. The NHRCM team conducted the survey among total 11 people working in these valleys. In recent years people from other soums and settlements have been coming to the places with gold deposits and carrying out mining activities, and there is not any single sustainably working partnership. 8 persons out of total 11 miners that were answered the NHRCM questionnaire were the artisanal miners from Bayankhongor province.

The artisanal miners don't have fundamental knowledge of labour safety, and what they are aware of is how to dig and how to work the equipment to sift the gold.

When the NHRCM visited Serghiin Nuruu mountain, there were pits dug in several places. The soil which was backfilled after mining was dug again, which poses a risk of landslide.

## Chandmani soum, Govi-Altai province

NHRCM team worked in Chandmani soum on 12-14 June, 2013. At the place named Huh sair situated 60 km from the capital of Chandmani soum artisanal miners are conducting active operation.

As stated Clause 5.1 of the Law on Income Tax of the citizen who individually engage in business activities and services whose income can not be determined every time, small-scale miner is obliged to pay income tax of 53000 tugriks monthly, the local people who run small-scale mining business often say it is usually difficult to pay this type of tax in winter when it is impossible to carry out small-scale mining activity or in times of low extraction rate. When clarifying on how they sell the gold they extracted, they all answered they sell it to black marketers because first, they are not organised formal small-scale mining businesses, and second, most of them owe to somebody, so it is common that they give the gold they extracted in debt. Thus, it is now urgent there be a formalised system to purchase the minerals extracted by the people running official small-scale mining business in remote areas.

In addition, the Clause 6.40 of the “Labour Safety Rules of Small-scale Mining Operation,” adopted by the order 153 of the Director of the Mineral Resources Authority dated 2011, states, “internal-combustion engine that is larger than 500cc shall be prohibited in the operation of small-scale mining,” but the artisanal miners working in this soum use the machineries with internal combustion engine with larger size than the aforementioned criteria.



Picture №6 Huh sair, Chandmani soum

They explained to the NHRCM team that due to the aforementioned reason, they are in a difficult position to establish an independent partnership and transfer into the organization of small-scale mining as required by the legislation.

They explained to the NHRCM team that due to the aforementioned reason, they are in a difficult position to establish an independent partnership and transfer into the organization of small-scale mining as required by the legislation.

Beside this, environmental pollution caused by waste and poor hygienic condition renders serious impact in the rights of the people living there to the healthy and safe environment. In case a partnership makes agreement to extract mineral resources through small-scale mining, it shall have obligation to carry out landscaping and to set up a centralised place to collect waste. However, it is not possible to monitor whether these obligations are abided because the artisanal miners living there are not organised as a partnership.



The NHRCM team conducted survey involving 18 persons and annexed with the research material.

### **Altai soum, Khovd province**

NHRCM team worked in Altai soum, Bayankhongor province on 23-25 August, 2013.

Currently there is not any small-scale mining activity conducted in this soum. Also there is not any area decided to be taken into the local special needs for the purpose of small-scale mining.

However, the special protected area situated in the distance of 110 km from the capital of the soum was subjected to the soil erosion because of small-scale mining, and the governor explained remediation was conducted there with the support of local community.

NHRCM team made observation in the territories of Bodonch, Barlag, and Takhilt bags and aimed to review the activities of the artisanal miners, and it did not encounter any person undertaking mining activity in these bags.

Clause 4.24 of the "Action Plan of the Governor of the Soum" (2012-2016) within the Annex 1 of the Resolution 02 of the Citizens' Representatives Council of the soum, stipulates to stop illegal gold mining and support establishment of small-scale mining partnerships.



Picture №7 Area eroded because of small-scale mining

### **Uyench soum, Khovd province**

NHRCM team worked in Uyench soum, Khovd province on 19-21 August, 2013.

There are gold mining deposits with 26 exploration licences in this soum. As these licences were issued within the areas of river basins, these areas have been taken under the state special protection. When there was exposure of gold in the place named Khar Chuluutiin Am, local people submitted a request to establish a partnership, but small-scale mining activities were stopped because the area was taken under the state special protection. Since then there has not been any remediation activity conducted in the area

which was eroded by the small-scale mining activity. Currently there is not any small-scale mining activity conducted in this soum.

### **Bulgan soum, Khovd Province**

NHRCM team examined the small-scale mining activities and conducted advocacy activity in Bulgan soum, Khovd province on 21-23 August, 2013.

The Citizens' Representatives' Council released the Resolution 05 dated 02 February 2007 permitting citizens registered in Bulgan soum to extract mineral resources through artisanal mining methods at the 4 hectares area called "Tsookhor Nuur." Since then 7 unregistered partnerships have been conducting small-scale mining operations at "Tsookhor nuur" situated in distance of 7 km from the capital of the soum. The partnerships have approximately 5-12 members each.



Picture №8 Artisanal miners' operation

Based on the relevant provisions of the "Regulation on the Extraction Operation of Minerals from Small-Scale Mines," adopted by the Government Resolution 308 dated 2010, the Director of the Mineral Resources Authority, with his order 153 dated 2011 adopted the template form of "Agreement of Extraction of mineral resources through small-scale mining" as Annex 1, the template of "Tripartite Agreement of extraction of mineral resources through small-scale mining from the area issued mining licence" as Annex 2, "Guidelines of remediation" as Annex 3, and "Template of Information on Labour Safety of Small-scale Mining" as Annex 4.

The governor of the soum established the agreement of cooperation with the members of the partnership for the period of one year on 04 January 2013 according to the Annex 3 of the Order 149 by the Director of the Mineral Resources and Petroleum

Authority dated 2008 and reflected terms to pay 16848 tugriks as fee of social insurance (pension, benefits, and insurance of industrial accident and occupational disease), 670 tugriks as fee of health insurance, 53000 tugriks as income tax of the citizen who individually engage in business activities and services whose income can not be determined every time by putting the fees into the shared currency fund. However, the aforementioned Order 149 of the Director of the Mineral Resources and Petroleum Authority, dated 2008, had been repealed by the Order 153 of the Director of the Mineral Resources Authority dated 21 April 2011. In other words, the governor established the agreement with the partnership extracting mineral resources through small-scale mining on 04 January 2013 based on the annex adopted by the lapsed order.

In addition, the Head of the Governor's Office explained to the NHRCM team that they can not draw the fees for tax and insurances from the members of the partnerships working at the places. Even though a few business entities and companies had used gold mining deposits, the authority made attempt to establish tripartite agreement with them without success. The companies are reluctant to make tripartite agreements as the companies don't acquire profit and even incur loss in case artisanal miners use the deposit whose resources were already determined. This indicates there could be a mechanism established to reward and encourage business entities and companies that allow small-scale miners work in their area on the basis of tripartite agreement.

Currently the area where the small-scale mining was carried out has not undergone remediation process. According to the "Regulation on Extraction Operation Of Minerals from Small-scale Mines," before handing over the area to the commission appointed by the governor, the partnership is supposed to conduct biological and technical remediation according to relevant rules and have the state environmental inspector make relevant conclusion. However, this is not common in practice.

The NHRCM team met with the people who carry out small-scale mining on the spot. As most of the people who carry out small-scale mining activities had gone to make hay, the team has conducted survey among total 12 persons (9 male and 3 female) of age between 14 and 46 working there. The team also documented the situation of the place with photos.

### **Durgun soum, Khovd province**

NHRCM team examined the small-scale mining activities and conducted advocacy activity in Durgun soum, Khovd province on 25-29 August, 2013.

At the place named "Huh ereg" situated in the territory of Argalant bag in the distance of 10 km from the capital of this soum, individuals started illegal gold mining activity from November 2012. Since then the authorities of the soum has failed to stop this illegal activity. The governor and the chairman of the Citizens' Representative Council explained that even though they made a request to the relevant authorities to organize local people within the scope of the relevant law and build up appropriate environment to conduct extraction operation of small-scale mines, relevant legislation has not been adopted so far.



According to the Government Resolution 308, the governor has given local community information on legislation and policy and provided support for them in organizing themselves and establishing a parent partnership called “Ungut” comprising 43 small partnership.

Even though currently there has not been any permission issued because of relevant legislation, people are still extracting gold illegally. As these small-scale miners are conducting mining activities illegally, they neither work in certain organisation nor get involved in social welfare and insurance.

Citizens’ Representatives Council of the soum with its resolution 07 the dated 15 March 2013 decided to take the 5 hectares area in the place named Huh ereg of Argalant bag for local special needs for the small-scale mining and made a request to the Authority for Miner Resources to have the conclusion specified in the Clause 11.1.23 of the Law on Mineral Resources released on the area coordinantes of which were marked.

On 3 April, 2013 the Mineral Resources Authority , after having considered the request, replied, “it is impossible to release a conclusion as the part a) of the Resolution 86 of the Government of Mongolia dated 01 April 2013 stipulates that an exploration license for an area with mineral concentration specified in the Annex 2 and determined with scale of 1:500000 and general exploration through State funded geological survey work shall be granted by tender according to the Clause 19.12 of the Law on Mineral Resources and as the area stated in the request is within the scope of the Annex 2 of the Resolution No 86 of the Government of Mongolia.”

The NHRCM team met with the people who illegally extract mineral resources in the place named Huh ereg and had 69 people (53 male and 12 female) of ages between 16-60 involved in the survey.



Picture №10 and 11 Small-scale miners who live and work in Durgun soum create and use artificial pond for gold panning

The soums the NHRCM selected are within the region where gold extraction activities are actively carried out, and the NHRCM team did not encounter the artisanal and small-scale miners who extract mineral resources such as spar and coal.

## TWO. EDUCATIONAL AND PROMOTIONAL ACTIVITIES

One of the main functions of the NHRCM is to support human rights education as it is stated in the article 13.2.5 of the Law on the National Human Rights Commission of Mongolia. The NHRCM uses “Human rights basic concept” and “Human rights-based approach” training modules in its human rights education activities and it also conducted human rights training in regional areas where artisanal mining operation including artisanal miners takes place within this advocacy activity.

See below chart for training coverage for these areas.

Regional areas where the NHRCM visited	Number of participants involved in training	Number of books and references distributed	Number of NHRCM's introduction and brochures on human rights distributed
Bayan-Ovoo soum, Bayankhongor province	47	49	63
Yesunbulag soum, Govi-Altai province	32	32	65
Biger soum, Govi-Altai province	43	43	56
Chandmani soum, Govi-Altai province	27	31	21
Bulgan soum, Khovd province	16	12	23
Durgun soum, Khovd province	21	21	26
<b>Total</b>	<b>186</b>	<b>188</b>	<b>254</b>

There was a lack of training venue and a lack of active participation from citizens at some places. People did not come to attend the training by their own initiatives as Governor is recommended in the announcement. Nevertheless, the number of participants was relatively higher at the human rights training for local civil servants. Civil servants were active in asking human rights related questions from trainers and were interested in raise their awareness on this topic.

The NHRCM had a meeting with artisanal miners who operate/mine in Bayan-Ovoo soum in Bayankhongor province and conducted a training on human rights basic concept for them on 5 June 2013 at meeting room of Police Department of the province.

The NHRCM also conducted the human rights training for civil servants on 6 June 2013 in Yesunbulag soum in Govi-Altai province. 32 people involved in the training and raised their awareness on human rights basic concept.

The NHRCM team worked in Biger soum from 10-11 June 2013. The Human Rights Education Division of the NHRCM conducted 1 hour training for each topic on “Human rights basic concept” and “Human rights-based approach” involving 43 people from local self-governing body and civil service.



Picture No.12. Training on “Human rights basic concept” at office of Secretariat of Governor of Biger soum, Govi-Altai province



Picture №13 Training on “Human rights-based approach” at office of Secretariat of Biger soum in Govi-Altai province.



The Human Rights Education Division of the NHRCM conducted 1 hour training for each topic on “Human rights basic concept” and “Activities of National Human Rights Commission of Mongolia” involving 27 people from local self-governing body and civil service during its advocacy activity in Chandmani soum from 12-14 June 2013; conducted 1 hour training on “Human rights basic concept” involving 16 people on 22 August 2013 in Bulgan soum, Khovd province and same training held by involving 21 people from local self-governing body and civil service on 26 August 2013 in Durgun soum, Khovd province.

The training covered the following issues: human rights principles, human rights violations, state duty to protect and promote human rights, restraints to human rights, human rights accountability, challenges for protecting human rights, civil service’s accessibility, accountability, quality for citizens, complaints handling procedure of the NHRCM, information transparency, and right to information.

Participants were keen to know about how to recognize whether it is human rights violation or not and how to prevent from human rights violation, what is an appropriate way to disseminate information of civil service to general public, and effectiveness of complaints handling by the NHRCM. It has been potential that civil servants’ approach on human rights could be changed positively in the event that civil servants working in those local areas can get comprehensive understanding of human rights and a scope of raising public servants’ awareness on human rights should get increased.

The NHRCM’s publications including brochures on “Business and human rights”, “Human rights basic concept” and “How to lodge a complaint to the NHRCM”, last two edition of “Human Rights” journal by the NHRCM and Human rights information leaflet were distributed among the participants. In addition, a compilation of presentations of “Mining and human rights in Mongolia”, the conference recommendations, the 12<sup>th</sup> Annual Status Report on Human Rights and Freedoms in Mongolia, and compilation of the UN Recommendations to Government of Mongolia were distributed to the Governors of soum.

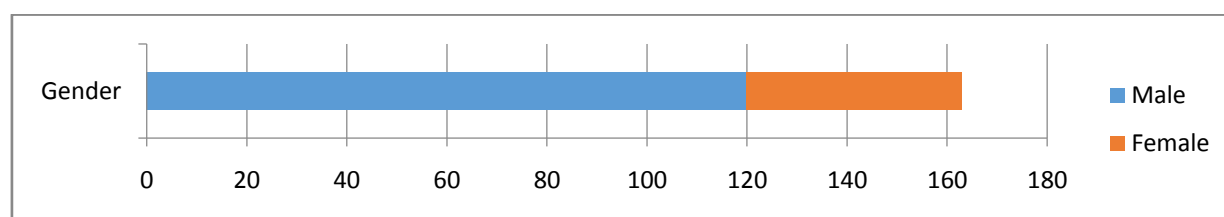
# THREE. OUTCOME OF THE SURVEY

A total 172 people took part in the survey of the NHRCM and shared their ideas and views on artisanal mining.

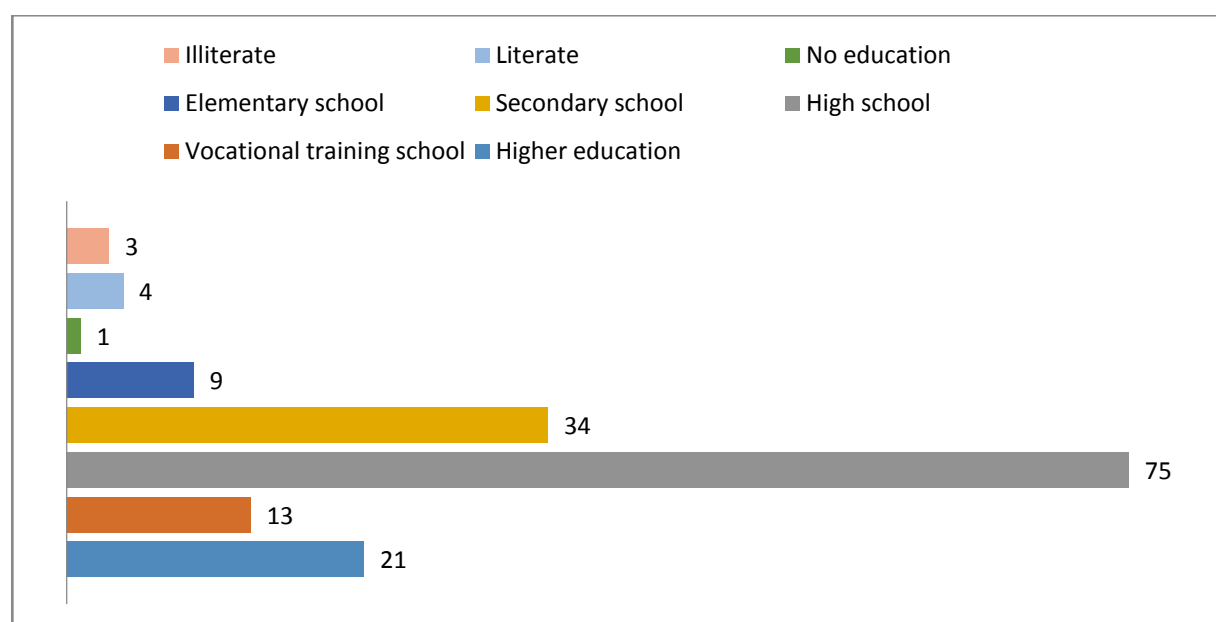
Below indicates a location of the participants,

Bayan-Ovoo soum, Bayankhongor province -	41
Yesunbulag soum, Govi-Altai province -	21
Chandmani soum, Govi-Altai province -	18
Biger soum, Govi-Altai province -	11
Bulgan soum, Khovd province -	12
Durgun soum, Khovd province -	69

1. The following shows a gender proportion of small-scale miners: Male 120 /69.8%/, female 43 /25.0%/ gave a response and 9 people did not provide any response.



Educational background of participants.



43.6% of survey participants have a full-secondary school education, and 12.2% of them have a higher education. Most of the small-scale and artisanal miners have lived in those mining areas for a long time. However 15.1% of the participants have resettled in that mining area from their home town.



It was observed from the survey that registration rate was in low level at that local mining areas among the small-scale and artisanal miners. A total 41 people /23.8%/ answered that they have registered at the local area, and the rest did not answer the question or answered that they did not register there as a resident.

2. A special survey questionnaire was distributed among 58 small-scale miners who joined the Partnership<sup>3</sup> and a number of members in one partnership was identified by the questionnaire.

63.7% or 37 people answered that their Partnership to which they belong has 5-10 members, and 20.6% or 12 people answered that their Partnership has 11-20 members. And 13.7% or 8 people answered that their Partnership has 20-50 members. 37.9% of the survey participants has joined their own respective Partnerships less than a year ago, whereas 17.2% of them or 10 people who have joined their Partnership for 1-2 years ago. 25.8% or 15 people have joined the Partnership as a member more than 2 years ago.

Most of the survey participants - 50 people /86.2%/ answered that they regularly pay their income tax. However, the remaining people answered that they could not pay their income tax regularly as they do not have a regular income every month even though they have an intention to pay it regularly. In general, some may have an income less than 53,000 MNT for a month and some may have more than that amount of money for a month. In that case, some people argue the fact that they all have to pay 53,000 MNT tax every month regardless of their income status creates inequality.

56 people out of 58 people who participated in the survey answered that they undertook remediation at the areas where they have mined.

3. With regards to survey that was undertaken among artisanal miners who did not join the Partnership:

56 people answered that they have been digging a gold up to 1 year, whereas 35 people said they have been digging a gold for 2-3 years, 11 people for 4-5 years, and 19 people answered that they have been digging a gold a more than 6 years.

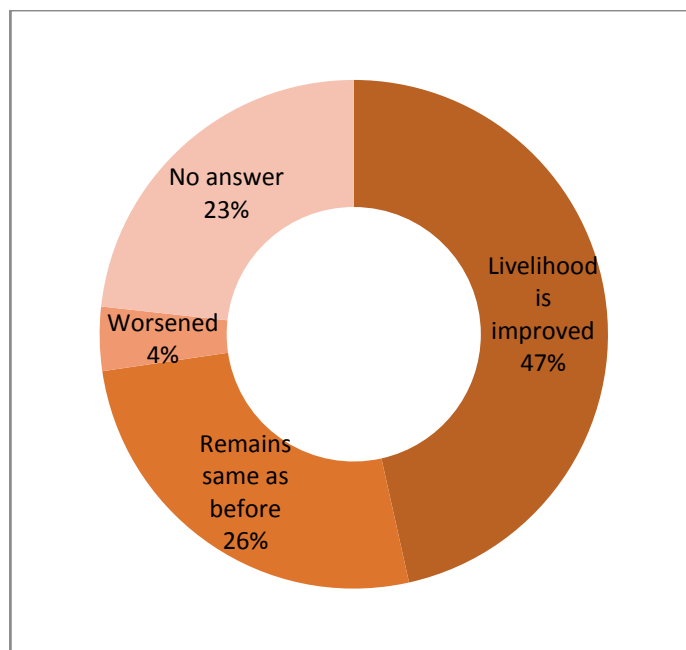
When we asked them why they still have not joined the Partnership yet, 47 people answered that they do not have an understanding and information about Partnership. 19 people answered that it is not necessary to join it, whereas 5 people answered that they are not allowed to join it even though they would like to join it. Another 16 people answered that there is no partnership in their respective local areas or soum.

According to the survey which was undertaken among those artisanal miners, 80 people or 46.5% of them answered that their livelihood has improved by working as an artisanal miners whereas 45 people or 26.2% of them answered that their livelihood remains the same as before.

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<sup>3</sup> Partnership shall be a legal person with assets, consisting of its members contributions, and liable for its obligations with these assets and the personal property of its members, as provided by law



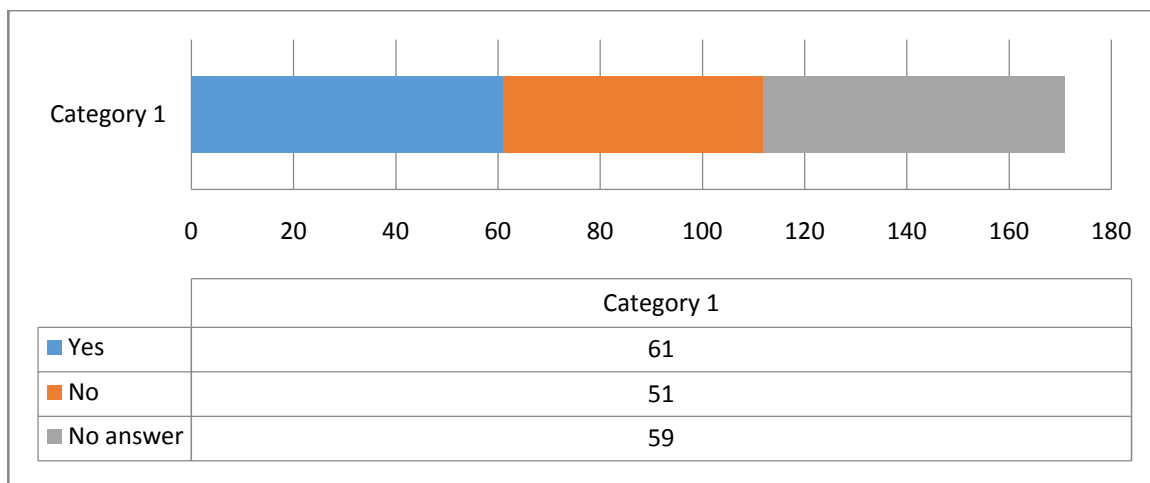


It seems that child labour still exists among those artisanal miners. There was a situation in which children were actually washing a gold and digging a hole at the local areas where the NHRCM selected to work in. According to the survey result, 24 people or 14% of them answered that they mobilize their children under 18 years old in their mining.

The Convention on the Rights of Child to which Mongolia is a party specifically stated that the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth. Therefore, the Governor of the soum who is responsible for monitoring over mining activities should pay attention to this common phenomenon of child heavy labour in the artisanal mining activities. According to the Clause 11.1.1 of “Regulation on the Extraction Operation of Minerals from Small-Scale Mines”, it prohibits a labour undertaken by a citizen under 18 years old. However, artisanal miners who are members of partnerships usually work altogether within their family members including their children. Therefore, it needs to be taken some action to eliminate such practice of children getting mobilized into mining activities.

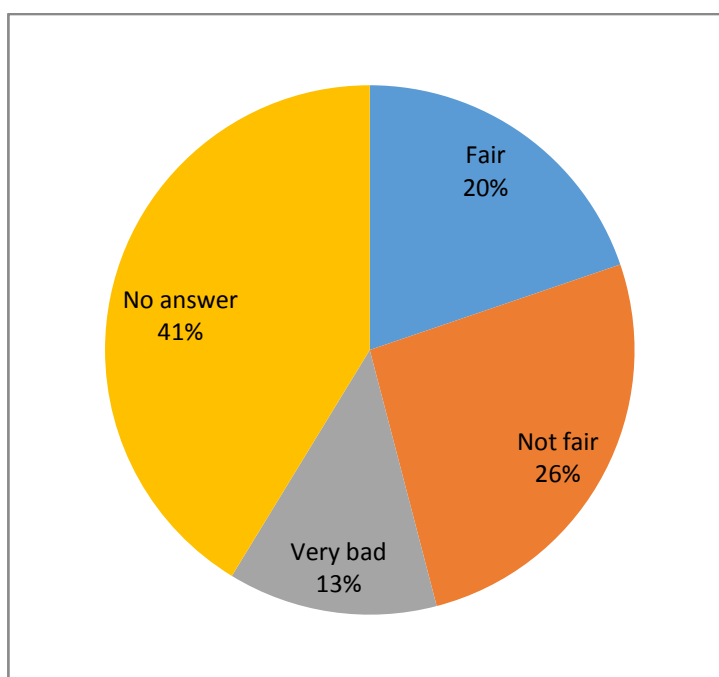
Access to health care among artisanal miners and small-scale miners was disproportionate to each other.

They provided a following answer to the question of “Do you have an access to medical health care service and check-ups?”.



We asked an open question, “what is your biggest problems for undertaking a small-scale and artisanal mining activities?” Many of them answered that increase in air pollution and dust causes a negative effect on their health and soil erosion, widespread of alcoholism and smoking, and a negative effect on children’s study and behaviour by the small-scale and artisanal mining activity.

Artisanal miners and small-scale miners who participated in the survey provided a following answer to the question, “How would you evaluate the activities undertaken by local authorities with regards to citizens’ request and proposals?”:



39 people answered “Yes” and 63 people answered “No” out of 102 people to the question, “Whether the local authorities take proposals and suggestions from citizens with regards to issues that effect their interest?” According to the Law on Information Transparency and Right to Access to Information, it is stated that a secretariat of local administration and local self-governing bodies, local state-owned or a legal entity connects with local state-owned should place adhering laws, regulations and rules on its website as well as

its information board in a coherent way and update them regularly, and place any new draft policy frameworks and draft standards, norms and decisions that shall be adhered publicly on its website in a coherent way for no less than 30 days, and if it is deemed to receive suggestions and proposals from relevant government and non-government organizations, experts, scientist, and citizens then it shall reflect their suggestions and proposals to those drafts within their activities. However, it was revealed by the NHRCM's work at those local areas that the aforementioned provision of the law is not being implemented.

Furthermore, artisanal miners and small-scale miners even do not have information of resources of places they have been mining. They have been mining and digging holes based on rumor and unreliable information by just hoping that those places might have potential resources.

## FOUR. PROPOSALS AND RECOMMENDATIONS

Based on the result of the research and monitoring, the following recommendations have been put forwarded to Governors of soums and artisanal miners and small-scale miners with regards to ensuring and protecting human rights in small-scale mining activities.

### **To Governors of soums and Citizens' Representatives' Council:**

1. There was a lack of activities that should be taken in relation to make a contract with small-scale miners who requested to join the unregistered<sup>4</sup> partnership. Therefore it is necessary to continue to undertake advocacy activities with phases in order to raise civil servants awareness about importance of decreasing human rights violations through formalizing those artisanal miners. In some certain soums, artisanal miners jointly work together, and they need to be unified as a partnership. Therefore it needs to take measures to implement the "Regulation on the Extraction Operation of Minerals from Small-Scale Mines" which was approved by the resolution No.308 of the Government in 2010 as well as to select certain areas for the specific needs of that local area for the mining activity;
2. It was identified during the NHRCM's work on selected areas that implementation of above rule varied depending on the personal interests and attitudes of the officials who are responsible for implementing the rule. Therefore the implementation process was slow despite the fact that the rule was approved a while ago. It needs to raise local communities' awareness on laws related to small-scale mining and promote these laws, share best practices of small-scale mining activities and organize advocacy activities with certain steps aiming to establish a cooperation;
3. Based on the relevant provision of the "Regulation on the Extraction Operation of Minerals from Small-Scale Mines" passed by the Government resolution No.308 in 2010, make a contract with members of partnerships regularly through utilizing a template form on "Small-scale mining activity" which was approved by the 1<sup>st</sup> annex of order No.153 of Director of the Mineral Resources Authority in 2011;
4. Calculate activities of technical and biological remediation that should be done for the areas where mining activities undertaken by partnership, and place a certain amount money for remediation shared fund;
5. There is a necessity of conducting a regular training and introduction among small-scale miners on labour safety in small-scale mining activities. Some

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<sup>4</sup> No registration is needed for unions and partnerships formed by several parties based on a joint action contract, and the participants shall decide their structure and management by mutual agreement.

small-scale miners are using a mercury or method of blast in their mining activities due to lack of information about small-scale mining. Thus, it needs to pay attention to those people who are working with a fear and with unsafe working conditions that cause a less work productivity as well as threaten their life;

6. Support and maintain livelihood of artisanal miners through ensuring an employment at those local areas;
7. Take joint measures with all levels of organization in order to ensure the right to development and right to education of minors who are involved in small-scale mining activities;
8. There was an insufficient statistics, data, and report on activities undertaken by the local authorities with regards to their duty to implement small-scale mining rules. Therefore, it is necessary to place adhering laws, regulations and rules on its website as well as its information board in a coherent way and update them regularly, and to release relevant thorough statistics in timely manner;
9. There is a lack of sustainable system through which the miners can sell the gold they have extracted. Although the Bank of Mongolia informed that it is able to buy the gold, it did not specify the exact procedure. Due to unclear procedure, an illegal buying and selling process are taking place. There is another conclusion that small-scale miners are choosing an easy way to sell their extracted gold as the process of determining gold standard is slowing down. According to the Clause 9.1 of the Regulation on the Extraction Operation of Minerals from Small-Scale Mines states that "In accordance with the relevant law, extracted minerals by the partnership shall be sold to a legal entity who is entitled to sell and buy". However this regulation is ineffective. Thus, it shall support the procedure of selling and buying in line with Law on Mineral Resources, and implement its duty to oversee the activities as stipulated in the part 13.1 of the regulation;
10. There is a discrimination against artisanal miners and small-scale miners, and an issue of bureaucracy in civil services. Therefore, it needs to take planned activities with aim of building the human-rights based approach among the civil servants as well as in their daily work activities.

#### **To small-scale miners:**

1. Undertake a complete remediation activities at extracted areas in timely manner and hand in it to the local authorities on regular basis. The remediation shall be undertaken in full compliance with "Guidance on technical and biological remediation for the areas that degraded due to small-scale mining activities" which was approved by the 4th annex of order No.153 of Director of Authority for Mineral Resources in 2011;

2. Ensure the principles that protect environment, undertake remediation, and do no harm to people and animals in ones activities, and implement a responsible small-scale mining activities;
3. Explain and inform small-scale mining workers on their duties and responsibilities to ensure small-scale mining labour safety and provide them with guidance on work place in advance on regular basis;
4. In accordance with the law, income tax of citizen who individually engage in business activities and services whose income can not be determined every time, shall be paid to local administration body.