



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-eighth session

### Summary record of the 2407th meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 December 2015, at 10 a.m.

*Chair:* Mr. Calí Tzay

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*Combined nineteenth to twenty-second periodic reports of Mongolia (continued)*

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined nineteenth to twenty-second periodic reports of Mongolia (continued) (CERD/C/MNG/19-22 and CERD/C/MNG/Q/19-22)*

1. *At the invitation of the Chair, the members of the delegation of Mongolia took places at the Committee table.*

2. **Ms. Bayartsetseg** (Mongolia), replying to the questions raised by Committee members at the previous meeting, said that the principle of non-discrimination was enshrined in the Constitution and that many other laws provided comprehensive protection against discrimination. The definitions and regulations contained, for example, in the Labour Law, the Law on Education, the Law on Public Service, the Criminal Code and the Civil Code were all in line with the Convention. Therefore, it was unnecessary to adopt a specific anti-discrimination law.

3. With regard to gender balance, 11 of the 76 members of the parliament were women, which was equivalent to about 15 per cent. Three of the 15 government ministers were women, as were three of the state secretaries. The Law on the Election of the Parliament required that 30 per cent of all electoral candidates should be women. As a result, there had been a major increase in the number of women elected as representatives in the parliament since 2012. Twenty per cent of the members of local Citizens' Representative Hural were women, as were 67 per cent of all judges in the country. The Law on Gender Equality required that 30 per cent of public servants at all levels should be women, and the Government was currently endeavouring to reach that quota.

4. She agreed with the Committee that the scarcity of complaints filed with institutions that could provide remedies did not imply that no grounds for complaint existed. The National Human Rights Commission and other relevant State institutions had organized extensive training courses and awareness-raising activities to draw attention to the existing mechanisms and procedures. As a result, the number of complaints of various types of violations had been increasing each year. Discrimination issues had not, however, been raised to date.

5. Law enforcement officers and prosecutors had attended training courses on how to handle sensitive cases involving discrimination. The General Council of Courts had developed a capacity-building programme with a human rights component to provide judges with the knowledge and skills they required to handle human rights cases, including proceedings involving allegations of discrimination.

6. The majority of judges and police officers in Bayan-Ulgii Province, which had a large population of Kazakhs, belonged to the Kazakh minority. The inhabitants could lodge complaints with the police and courts in their own language. During legal proceedings, assistance was provided when necessary by official interpreters.

7. The Government was deeply concerned about recent incidents involving ultra-nationalists and was taking concrete measures to prevent and prosecute intolerance, violence and discrimination against foreigners. Investigations were being conducted by the police, and eight people had been charged with offences. The draft criminal code, which was pending before the parliament and was expected to be adopted very soon, contained a specific provision defining the offence of discrimination; its implementation would help to prevent and combat extremist incidents. The Dayar Mongol group would be disbanded because it had breached the Constitution and the Convention.

8. Mongolia was by tradition an ethnically homogeneous country. Kazakhs and the Dukha (Tsaatans) had been characterized as ethnic minorities because of their distinct linguistic, cultural and religious backgrounds. The latest figures for the number of citizens of Russian and Chinese descent were 643 and 1,229, respectively.

9. The Constitution guaranteed Mongolian citizens the right to freedom of movement within the country, freedom to choose their place of residence, the right to travel or reside abroad and the right to return to their home country. It also stipulated that the right to travel and reside abroad could be limited exclusively by law in order to ensure the security of the nation and the population and to protect public order. However, that provision had never been implemented. There were also no restrictions on citizens returning to the country. The figures provided in the report for Mongolian citizens travelling abroad were very high because they referred to departures, not people. The same citizen might depart and return several times during the same year.

10. The acquisition, restoration or cessation of citizenship was based exclusively on voluntary requests, and arbitrary action was prohibited by law. Requests were submitted to the President of Mongolia, who took decisions based on the 1995 Citizenship Law. During the period from 1994 to 2015, a total of 56,370 Mongolian citizens of Kazakh origin had been granted citizenship of Kazakhstan, and 1,639 applicants had subsequently had their Mongolian citizenship restored. No restrictions were imposed on such requests.

11. The National Human Rights Commission was an independent body appointed by the parliament. Budgetary allocations to the Commission had indeed declined in recent years. However, similar cuts had affected all State bodies, including government ministries, courts and law enforcement agencies, owing to the current economic and financial situation. Projects were being implemented in coordination with international institutions such as the United Nations Development Programme to support the National Human Rights Commission in raising public awareness of human rights and in conducting other human rights activities.

12. All international treaties ratified by Mongolia were part of the domestic law and should therefore be applied by the country's judges. In a recent case, a judge had invoked the International Covenant on Civil and Political Rights to acquit a defendant. The General Council of Courts, which organized training courses for judges, had produced numerous copies of the texts of international treaties for use in legal proceedings.

13. Corruption among judges was a matter of great concern, and three years previously the Government had launched comprehensive judicial reform measures inter alia to combat the phenomenon. The legislature had enacted a set of laws regulating the independence and impartiality of judges with a view to preventing corruption and bribery. Judges' salaries had been raised and accountability and transparency mechanisms had been established.

14. Under a new Budget Transparency Law, all State organizations and institutions were required to reveal their financial transactions to the public via a website and a newsletter. The Law was greatly appreciated by the general public, which could monitor such transactions to prevent corruption. The courts too were required to publish their expenses and financial transactions.

15. Mongolia had enacted a Law on Media Freedom and had many media outlets: approximately 90 television channels, 65 radio stations, 13,000 newspapers and 4,000 magazines. The clause concerning defamation and libel had been deleted from the draft criminal code that was about to be enacted.

16. Under the Law on the Legal Status of Foreign Citizens, foreigners with a permanent residence permit were required to inform the Office of Immigration, Naturalization and Foreign Citizens of their intention to leave the country. The Office then checked whether the person in question had committed any crime or offence, such as tax evasion. If not, permission to leave the country was granted, without exception. The requirement was basically an administrative procedure.

17. The Government acknowledged the importance of the Convention relating to the Status of Refugees and its Protocol and was exploring the possibility of ratifying both instruments. The National Human Rights Commission was an independent institution. The Government imposed no restrictions on its participation in meetings of the human rights treaty bodies. Under the Criminal Code, the penalty for discriminatory offences such as acts motivated by a person's racial or ethnic origin was a term of imprisonment of between 1 and 5 years. If such acts were accompanied by physical assault, two separate articles were applicable, thus incurring a more severe penalty.

18. Mongolia adhered to the principle of combating hate crimes effectively without unduly compromising freedom of expression. Organizations that incited racial discrimination or promoted violence and crime were declared illegal and prohibited, and such conduct normally gave rise to criminal proceedings.

19. The Law on the Legal Status of Foreign Citizens reflected the State's policy on immigration and migrant workers. It limited the number of foreign citizens residing in Mongolia to 3 per cent of the population, or about 90,000 persons. That number had never been reached. The limit was gradually increasing, in line with the growth in the Mongolian population.

20. The National Human Rights Commission and the National Council for Human Rights were two separate bodies. The Commission was an independent institution with a broad mandate, which included hearing and considering complaints concerning individual situations, whereas the Council was an inter-agency and interministerial institution responsible for coordinating human rights policies within the Government and ensuring that the relevant laws and international conventions were properly implemented.

21. The provision of legal aid and court interpretation services was guaranteed under the Constitution. A specific law on free legal aid had been adopted in 2013 in order to ensure that persons who were unable to afford a lawyer could exercise their right to counsel. Under the law, legal aid centres provided free assistance to such persons at all stages of the legal proceedings. The centres had been established throughout the country, including in Bayan-Ulgii Province, where legal aid was provided by Kazakh speakers. A full-time Kazakh interpreter was employed by the courts in that province. Courts in other provinces had a budget to employ interpreters as needed.

22. The Ministry of Justice was responsible for reviewing national and local policies and amending or nullifying laws and regulations that had the effect of creating or perpetrating racial discrimination, for example when they were deemed to be inconsistent with the Constitution, existing national legislation or the international treaties ratified by Mongolia. The international instruments to which Mongolia was a party had the same effect as national legislation, provided that they did not contradict the Constitution. When the Government ratified an international instrument, the parliament adopted a law on the ratification of the treaty in question.

23. Mongolia was a secular country. Under the law governing the separation of the State and religious organizations, such organizations operated independently, without any interference from the State. The law covered not just monasteries, but all religious institutions, including churches and mosques. The number of mosques and churches was increasing in the country.

24. The Dukha people met some of the criteria set out under the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO). The Dukha shared elements of indigenous peoples, including traditional lifestyles and a culture and way of life different from other segments of the national population, for example in their livelihoods, language and customs. However, other elements were lacking. The Dukha did not have their own social organization or political institutions and had not lived in historical continuity in a certain area before others had invaded or come there. There were thus no indigenous groups in the country in the strict sense of the word, as the Dukha and the Mongolians had been living together in the territory of Mongolia for thousands of years. The Government was, however, currently exploring the possibility of ratifying the Convention.

25. Mining permits had been issued throughout the country, which was undergoing a mining boom. However, only one such permit had been issued in the region where most Dukha people lived. The permits issued in Bayan-Ulgii Province, whose inhabitants were mostly Kazakhs, accounted for only 4 per cent of the total number issued in Mongolia. A new law had been introduced to regulate hunting in order to preserve the country's wildlife, in view of the number of species that were endangered. The restrictions on hunting were applicable throughout the country and were not limited to any single province. In accordance with a law adopted in 2014 that governed the legislative process, whenever legislation was introduced, consultations were held with the relevant stakeholders. Under that law, all bills must be vetted by the groups affected by the draft legislation in question. Although the law had not been in force when the law on hunting had been considered, the Government had made every effort to consult with civil society and the communities concerned.

26. The labour conditions of migrant workers, in particular from China and the Democratic People's Republic of Korea, were a matter of great concern to the Government. Labour exploitation was prohibited by the national law on human trafficking, and the Government was working to monitor such exploitation among companies operating in Mongolia. A number of cases of labour exploitation involving low wages and poor working conditions were currently under investigation.

27. **The Chair** said that the delegation's statement concerning the communities affected by mining operations was proof that the State party was indeed in a position to ratify ILO Convention No. 169.

28. **Mr. Vázquez** said that the Committee would like to see a translation of the draft criminal code. How did the Government measure the effectiveness of the steps taken to root out corruption in the judiciary, introduced three years before? Was it true that under the Law on the Legal Status of Foreign Citizens foreign nationals could be prevented from leaving the country for a variety of reasons, including civil disputes, even without being the subject of an arrest warrant or official determination that charges were warranted? He had received reports that a mere complaint by an aggrieved party was sufficient to justify the denial of an exit visa. Concerns had been raised that public and private entities had increasingly been making use of that law to pressure foreign nationals to settle commercial disputes. Noting that the poverty rate among minorities was reportedly 47 per cent higher than among other groups, he asked what special measures were being taken to tackle possible de facto discrimination. Lastly, he would appreciate information about the high dropout rate among Kazakh students and steps taken to address the lack of access to education for Tuva minority children.

29. **Mr. Diaconu** said that he was concerned about the wording of an article of the Criminal Code that, at least in translation, referred to "propaganda with a view of stirring up of national, racial or religious hatred between peoples". The State party

should replace “propaganda” with the wording used in the Convention, which referred to “incitement”.

30. **Ms. Bayartsetseg** (Mongolia) said that she would be pleased to provide the Committee with a copy of the new criminal code, which she hoped would be adopted by the parliament within days. As soon as it was translated into English it would be made available to anyone interested in seeing it. The indicators of the effectiveness of the anti-corruption measures included the corruption perceptions index issued by Transparency International. The country score of Mongolia had been steadily improving. Another such indicator was the ease of doing business index, created by the World Bank. The scores for that too had been improving, particularly for 2015. The World Bank had issued a press release on the efforts made by the Government to simplify regulations for businesses.

31. It was possible that foreign nationals involved in commercial disputes could be prevented from leaving the country, but only in cases in which the prosecutor’s office had given its authorization. The Prime Minister had recently made a statement aimed at promoting foreign investment and streamlining bureaucratic procedures for foreigners entering and leaving the country for business purposes. Work was also being done to amend the law in order to help foreign investors and citizens to enter and leave the country more easily and without hindrance.

32. There was no evidence of structural discrimination in the country. The poverty and employment rates suggested that the people living in the various provinces, including those inhabited predominantly by minority groups, enjoyed equal economic and social rights. For example, the poverty rate in Bayan-Ulgii Province, where there was a high concentration of Kazakhs, was no higher than in other provinces. The employment rate in that province and the province where the Dukha people lived was also the same or higher than the rate in other provinces.

33. School dropout was a concern not only for Kazakh children but also for children from herder families. Thanks to the Government’s education policy and specific measures it had implemented, the dropout rate had steadily decreased year by year. In schools in Bayan-Ulgii Province, the curriculum was taught in the Kazakh language. Thus, language did not pose a barrier to school attendance for Kazakh children.

34. The Mongolian word that had been translated in the report as “propaganda” referred primarily to incitement. The Criminal Code was fully in line with the spirit of the Convention. The Institute of Education was mandated to develop the new school curriculum and prepare teachers to teach it. Education reform was under way in secondary schools, and the Institute was playing a major role in preparing new teaching materials and methods. Representatives of the Kazakh minority were involved in the creation of teaching materials in the Kazakh language.

35. **Mr. Yeung Sik Yuen** asked the delegation to clarify the relationship between the State and religion. The corresponding part of the report was somewhat unclear and had perhaps been mistranslated. Was it correct that there were 720 registered religious organizations in the country? He wished to know the exact number of universities in Mongolia, as the figure provided in the report covered not just universities but also foreign language schools.

36. **Mr. Kemal** said that it was regrettable that there was no representative of the National Human Rights Commission of Mongolia in attendance at the current meeting. Was that absence due to a lack of funds? The State party had adopted a number of progressive policies, such as those on combating corruption and punishing racially motivated crimes. He asked whether the Government planned to take any measures to discourage the spread of false doctrines of racial superiority and racial purity, as doing so could help to curb incidents of xenophobia and hate speech.

37. **Ms. Bayartsetseg** (Mongolia) said that the report referred to the Law on the Relationships between the State and the Monastery, which prohibited discrimination on religious grounds and protected individuals' religious rights. The Criminal Code criminalized discrimination on grounds of race, ethnicity and religion. There were indeed 720 registered religious organizations in the country. The number of religious institutions, including both churches and mosques, was steadily increasing, and there were no administrative or other limitations on the opening of such institutions. Such decisions were left to the discretion of local administrative units and did not require approval by any government ministry or agency. There were currently 662 secondary schools and 99 universities in the country. Those high numbers testified to the Government's commitment to promote the right of education for all. Most universities were privately operated. They were located not just in the capital, but also throughout the provinces and in remote areas.

38. The National Human Rights Commission was actively engaged in the work of the human rights treaty bodies, and it was her understanding that part of the Commission's budget was earmarked for travel to Geneva or New York to attend treaty body sessions. The Government did not have the authority to pressure the Commission to attend the sessions of specific treaty bodies. Nevertheless, it worked in close collaboration with the Commission on questions relating not just to discrimination but also to other human rights issues. The Government gave careful consideration to the Commission's annual reports and followed up on its recommendations. The Ministry of Justice carried out joint prison visits with the Commission. The State prohibited and discouraged the spread of doctrines of racial superiority, in accordance with the Constitution and the international legislative framework.

39. **Ms. Crickley** said that it would be useful for the Committee to know about any work conducted by the National Human Rights Commission that related specifically to racial discrimination. Other treaty bodies had previously recommended that the Government should provide additional financial resources to the Commission so that it could more effectively fulfil its mandate and had said that a clear and transparent process should be adopted for the appointment of the Commission's members. She wished to know what steps the Government was taking to implement those recommendations and to ensure that the Commission was in a position to engage more directly with the Committee in an effort to combat racial discrimination.

40. The Committee would welcome disaggregated data not just on the participation in society of women in general, but on the participation of women from minority groups. It was regrettable that NGOs working in Mongolia had not directly participated in the Committee's consideration of the report of Mongolia. How did the Government plan to disseminate the outcomes of that consideration and ensure more substantial engagement by NGOs in the future?

41. **Mr. Vázquez** said that, while the delegation had provided a great deal of statistical information in its oral replies, it would have been more useful if that information had been included in the report itself. He asked whether the discrepancy between the figures received by the Committee and those presented by the delegation on the poverty rate in Bayan-Ulgii Province could be attributed to outdated data, or whether there was some other explanation.

42. **Ms. Bayartsetseg** (Mongolia) said that the National Human Rights Commission had covered the issue of minorities extensively in one of its annual reports. It had included concrete data and had referred to cases of rights violations in that report, which had been discussed by the parliament. The Commission had held far-reaching training and awareness-raising campaigns to inform local communities, and particularly minority communities, about their rights and the forms of redress

available to them in the event of violations of those rights. The Government had adopted austerity measures in response to a particularly dire financial situation. Efforts would nonetheless be made to provide the Commission with the resources necessary to fulfil its mandate.

43. Women from minority groups were well represented in the civil service, especially in Bayan-Ulgii Province, where 70 to 90 per cent of law enforcement and court officials were ethnic Kazakhs. More than half were women. Mongolia had a vibrant civil society and its organizations operated independently. The Government frequently sought their input, in particular for reporting on the country's efforts to implement the international treaties to which it was a party. The periodic report had incorporated suggestions made by civil society organizations.

44. Most Mongolian provinces had pockets of poverty, but according to the latest data, the poverty and unemployment rates in Bayan-Ulgii Province were around the national average. Future reports would include disaggregated data on poverty and unemployment.

45. **Mr. Amir** said that in spite of the country's impressive growth in recent years, apparently not everyone had benefited. As the Special Rapporteur on extreme poverty and human rights had noted after her visit to Mongolia, levels of inequality were still high. In addition, the country was urbanizing rapidly. What was being done to ensure that both the countryside and the cities benefited from the country's growing prosperity? Had the Government taken any measures to treat sick children who had moved from the countryside to the cities but had not registered with the local authorities in their new places of residence? Lastly, he asked whether the State party intended to revise its laws so as to give a more prominent place to the definition of racial discrimination.

46. **Ms. Bayartsetseg** (Mongolia) said that the Mongolian Government was well aware that despite the boom of recent years, and notwithstanding the double-digit economic growth fuelled by foreign investment in the mining sector, poverty remained a problem, especially in remote areas. Efforts to reduce poverty and inequality had been complicated, however, by the steep fall in commodity prices in 2014 and the consequent end to a long period of growth. A number of steps to promote regional development had nonetheless been taken. Under an amendment to the Minerals Law, for instance, mine operators were required to pay royalties directly to the provinces where the mines were located.

47. A recent study had found that the poverty rate nationwide was 21.4 per cent, down from 27.4 per cent three years earlier. To achieve sharper drops in the poverty rate and end the country's overreliance on extractive industries, the Government was promoting economic diversification. In the countryside, for instance, it was encouraging animal husbandry and related activities such as cashmere and meat production.

48. Official approval was not required for a move from the countryside to the city, nor was there any need to pay a city tax. When children moved, the only requirement was that they should be registered with the local authorities in their new place of residence. Regardless of whether they were registered, however, they were entitled to a number of public services, including free health care.

49. The Government monitored the country's increasing urbanization closely but had not lost sight of the importance of developing the more remote rural areas. It had therefore decentralized the provision of public services and ensured that local authorities had more discretion to make economic decisions affecting their areas. Those changes had been made as part of efforts to reduce poverty and extreme poverty throughout the country. The domestic law contained anti-discrimination provisions,

and the authorities considered that they provided an effective means of preventing racial and ethnic discrimination.

50. **Mr. Huang Yong'an** (Country Rapporteur) noted that the dialogue with the State party had focused on its legislation on racial discrimination, the representation of minorities and women, the situation of ethnic minorities, freedom of movement and other related issues. The Committee appreciated the frankness and willingness to cooperate of the delegation of Mongolia.

51. **Ms. Bayartsetseg** (Mongolia) expressed her delegation's gratitude for the opportunity it had been given to provide further information on the country's efforts to implement the Convention. The Mongolian Government acknowledged the important role of such stakeholders as civil society organizations and would continue to encourage them to take part in its efforts to eliminate all forms of racial discrimination in Mongolia.

*The meeting rose at 12.45 p.m.*