



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
11 December 2015

Original: English

Committee on the Elimination of Racial Discrimination Eighty-eighth session

Summary record of the 2406th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 2 December 2015, at 3 p.m.

Chair: Mr. Calí Tzay

Contents

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

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-21526 (E) 091215 111215



Please recycle 



The meeting was called to order at 3.05 p.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 (CERD/C/MNG/19-22 and CERD/C/MNG/Q/19-22)

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

2. **Ms. Bayartsetseg** (Mongolia), introducing her country's combined nineteenth to twenty-second periodic reports (CERD/C/MNG/19-22), said that Mongolia was an active member of the international community and had been striving to promote democracy, human rights and the rule of law and to embrace diversity and multiculturalism. It had recently chaired the Community of Democracies and had hosted the fifth annual Freedom Online Conference. Moreover, it had ratified a number of international human rights instruments and, in October 2015, had been elected to serve on the Human Rights Council. In accordance with the World Programme for Human Rights Education, the Government of Mongolia had taken steps to introduce human rights education in national curricula at the primary, secondary and tertiary levels.

3. Provisions against discrimination were contained in the Constitution and in a range of domestic laws, several of which were being revised with a view to ensuring greater compliance with international human rights commitments and obligations. A new criminal code had been drafted and had been submitted to the parliament for adoption. It included a specific article on discrimination and would for the first time criminalize various forms of discrimination, providing for penalties of up to 5 years' imprisonment. The parliament was also considering a proposal to amend the Labour Law to bring it into line with the International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and also an administrative procedure bill containing specific provisions prohibiting discrimination. The Law on Social Insurance had been amended so that the social charges of the Dukha (or Tsaatan) people would be covered by the State. The Law on Education gave children from minority groups the right to preserve their cultures and traditions and to communicate in their mother tongues at school.

4. The National Human Rights Commission, which complied with the Paris Principles, conducted regular investigations into possible cases of human rights violations, including those involving racial discrimination. The Commission had representatives in the administrations of all 21 provinces of the country who carried out human rights awareness-raising and non-discrimination campaigns in rural areas. The Commission also put forward policy recommendations to the parliament. To date, no complaints of racial discrimination had been filed with the Commission or with any other State institution.

5. In order to ensure the right to a fair trial, the Judicial General Council set aside funds from its annual budget for the translation of case materials and for interpretation during court proceedings. In Bayan-Ulgii Province, where there was a Kazakh majority, courts employed interpreters on a full-time basis and legal assistance centres had been established to translate legislation into Kazakh when necessary.

6. According to a 2010 census, the two biggest minority groups in Mongolia were the Kazakhs and the Dukha, who accounted for 3.86 and 0.01 per cent of the total population, respectively. The Government had drawn up programmes to support the livelihoods of minorities and to guarantee their access to education and to legal assistance in their mother tongue. In recent years, it had endeavoured to reduce the

disparities between rural or remote areas and central towns or cities by funding projects to build schools, cultural centres and libraries and to provide Internet service in those areas. There were numerous Kazakh-language public and private television channels, radio stations and newspapers.

7. In Bayan-Ulgii Province, both Kazakh and Mongolian were used as languages of instruction at school. Pursuant to a joint decision issued in 2007 by the Minister of Education and the Minister of Finance, schools in that province were allocated a budget 30 to 40 per cent greater than that of comparable institutions in other provinces. The Government had launched programmes and action plans to improve the education of Kazakh children. In 2011, a special department had been opened for that purpose within the Ministry of Education.

8. Minority groups were proportionally represented in all areas of public life. In the civil service, they accounted for between 4 and 5 per cent of employees. In the parliament, 2 of the 76 members were from minorities, and in the police force, minorities accounted for around 10 per cent of officers. There were also members of minorities in the judiciary and the prosecution service.

9. Special summer programmes had been organized for preschool children in the Dukha community, and scholarships had been granted to all Dukha persons wishing to pursue higher education. Several members of that community had been employed as rangers at Tengis-Shishged National Park. Since 2013, all Dukha families had been entitled to a monthly allowance equal to twice the minimum wage. In the district of Tsagaannuur, financial support was provided for visits by Dukha people to relatives on the Russian side of the border, and a team of doctors was in place to provide specialized health care to the Dukha community.

10. The issuance of mining permits required approval from the local community. In the district of Tsagaannuur, where the Dukha people lived, the only permit granted for extraction purposes had since been revoked, as the area in question had been included in a national park. In an effort to preserve endangered species, the Government had imposed seasonal and permanent restrictions on the hunting of certain animals. To minimize the impact of such measures on the Dukha, for whom hunting was a tradition, the Government was studying the possibility of allowing the non-commercial hunting of some animals. It had also developed programmes to promote reindeer breeding and herding.

11. The Government sought to facilitate travel and residence by foreign citizens in Mongolia, including through bilateral agreements with other States. Mongolia was not considered a destination country for refugees and had received no asylum applications. That notwithstanding, the Law on the Legal Status of Foreign Citizens had been revised in 2010 to incorporate provisions on the granting of refugee status and asylum. The Government had signed a memorandum of understanding with the Office of the United Nations High Commissioner for Refugees (UNHCR) in 2007, which served as a framework for the provision of services to asylum seekers and refugees. Recently, the parliament had passed an amnesty law to free all but one of the foreign citizens who had been serving prison sentences in Mongolia.

12. Cases of racially motivated violence accounted for between 6 and 7 per cent of all crimes committed against foreign citizens. The Government was taking steps to prosecute and punish individuals who incited racial discrimination and violence and to train police officers in the prevention of such acts.

13. To enhance interaction with the human rights treaty bodies, the Government had adopted a resolution that specified the roles and responsibilities of each ministry in the preparation and submission of reports and in the implementation of the recommendations received. It also cooperated with civil society organizations, which

had helped draft the periodic report under consideration, and ensured their active participation in the decision-making process.

14. **Mr. Huang** Yong'an (Country Rapporteur), welcoming the delegation of Mongolia, said that the report lacked information on the economic and social status of minority groups and that he would appreciate further details on the results achieved by the national programme to raise the living standards of the Dukha.

15. The report stated that the main law for combating racial discrimination was the Constitution. He urged the State party to give serious consideration to enacting comprehensive legislation to prevent and prohibit racial discrimination, in accordance with the Committee's previous concluding observations (CERD/C/MNG/CO/18).

16. He wished to know what the Government was doing to protect the rights and interests of minorities from the effects of privatization, and he called on it to boost the representation of minorities and women in legislative bodies at all levels of government.

17. The Government had reported that no complaints of racial discrimination had been filed with the National Human Rights Commission or with the police. In its previous concluding observations, the Committee had emphasized that the mere absence of complaints and legal action by victims of racial discrimination might be mainly an indication of the absence of relevant specific legislation, of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

18. He noted with concern that there had been a rise in xenophobia and in support for ultranationalist groups since the changes of the 1990s, when the country had adopted a market economy and had opened up to foreign investment. Although the Government had taken some action against xenophobia and hate speech, it should adopt more effective measures and strengthen the relevant laws and policies, in line with the Committee's general recommendation No. 35 (2013) on combating racist hate speech and with the Durban Declaration and Programme of Action.

19. **Mr. Yeung Sik Yuen** said that he would welcome clarification of the distinction made, if any, between national minority groups and ethnic groups. Noting that the report stated that the right to travel and reside abroad could be limited by law to ensure the security of the nation and to maintain public order, he asked how such a limitation of personal freedom could be invoked in support of such aims. The delegation should provide more information about how the law on travel was applied. Specifically, on what grounds could the right of citizens to travel abroad be suspended, and for how long? He requested confirmation of the number of Mongolian citizens who travelled abroad. According to the figures cited in the report, 1,631,452 citizens had done so in 2012, which seemed very high in proportion to the country's population of less than 3 million. The report stated that depriving citizens of Mongolian citizenship was prohibited under the Constitution, but that the President exercised the right, as a prerogative, to decide matters related to the granting and withdrawal of Mongolian citizenship. In what circumstances could citizenship be withdrawn? The delegation should also comment on the situation of Mongolian citizens of Kazakh origin who had renounced their Mongolian citizenship in favour of Kazakh citizenship but had later had their Mongolian citizenship restored.

20. **Mr. Vázquez** pointed out that the absence of complaints was not an indication that discrimination did not exist and pointed out that a possible reason for a failure to report cases of discrimination might include a lack of public confidence in the complaints mechanisms. While welcoming the fact that the National Human Rights Commission had been granted A status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, he asked

the delegation to comment on reports that the Government had not provided the Commission with sufficient financial support for its activities, thus prompting it to seek funding from external sources. Were there any plans to increase funding for the Commission? During the universal periodic review of Mongolia, the Commission and NGOs had reported that complaints of human rights violations were not being adequately addressed. Had any progress been made since then? According to information received by the Committee, the judiciary did not apply international human rights treaties when handing down decisions, and it lacked the financial and human resources and institutional professionalism to function as a truly independent adjudicator of disputes. The delegation should also provide further information on the freedom of the media to operate without government interference or intimidation.

21. The delegation should comment on reports that the requirement for people to hold exit visas in order to leave the country was being used to pressure foreign nationals to settle commercial disputes. Did the State party have any plans to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol? Because Mongolia was not a party to that Convention, UNHCR had expressed concern that bilateral obligations often overrode the customary obligations regarding non-refoulement of asylum seekers and refugees, and NGOs had cited a number of examples of Chinese nationals seeking asylum who had been sent back to China. Noting that refugees and asylum seekers were considered illegal immigrants and therefore did not have permission to work, he asked whether they were eligible to receive government financial support and access to basic services.

22. **Mr. Kemal** said that the Committee noted with satisfaction that the National Human Rights Commission complied with the Paris Principles. Why had the Commission not engaged with the Committee as part of the review of the State party's report? The fact that there had not been any complaints of racial discrimination might be attributable to victims fearing reprisals from extremists if they filed complaints. The delegation should describe the range of penalties for discrimination and violence set out in the new draft criminal code. In the new code it would be important to ensure that racial motivation would constitute an aggravating circumstance in the commission of offences. With regard to ultranationalist organizations that engaged in hate speech, he drew the delegation's attention to the Committee's general recommendation No. 35 on racist hate speech and invited it to comment on the neo-Nazi Dayar Mongol group, which had been gaining popularity in recent years.

23. **Mr. Diaconu**, noting that, according to the State party report, the national minorities in Mongolia were the Kazakhs, the Dukha and the Tuvas, asked whether there were not also Chinese and Russian minorities. He would be interested to know more about how international treaties to which Mongolia was a party became effective as domestic legislation. Noting that the Law on the Legal Status of Foreign Citizens recognized that international treaties took precedence it, he wondered whether a similar provision was also set out elsewhere, and whether it applied generally to other laws. With regard to the provisions of the Criminal Code on the prohibition of racial discrimination, the reference to "propaganda with a view to stirring up national, racial or religious hatred between peoples" was apparently exceedingly general and not fully in line with the requirements of article 4 of the Convention, which covered much more than simply propaganda. According to the report, by law, the number of foreign citizens residing in Mongolia for private purposes must not exceed 3 per cent of the population of Mongolia, and nationals of any one country must not exceed 1 per cent. What would happen in practice once those limits were reached? Was the establishment of associations that promoted discrimination on racial or other grounds prohibited in the same way as were political parties of the same ilk? The delegation should provide more information on the activities of the Institute of Education, particularly those related to the Kazakh and Tuva languages. Noting the proliferation of bodies that

operated to protect the rights and interests of citizens, he asked about the individual competences of each body, the difference between the National Human Rights Commission and the National Council for Human Rights, and how coordination was ensured between them.

24. **Ms. Hohoueto** expressed concern that there was no definition of racial discrimination in line with article 1 of the Convention in the domestic legal order. How could penalties be appropriately adapted to the crime of racial discrimination under the new criminal code in the absence of a clear definition? Noting the delegation's explanation that a law defining racial discrimination had not been deemed necessary because the Convention was directly applicable, she asked whether judges and law enforcement personnel were trained on the provisions of the Convention and how to deal with complaints that invoked it. Had any such complaints been submitted? She would be interested to know more about the interpretation services available in courts and to whom they were provided. The delegation should also provide further information on the practical application of the quota for foreign citizens allowed to reside in Mongolia.

25. **Mr. Khalaf** asked whether it was necessary to enact legislation to give domestic effect to international treaties ratified by Mongolia, or whether that happened automatically upon ratification. Did treaties take precedence over national legislation as a general rule? How did judges apply the provisions of the Convention? The report stated that the concepts of international conventions were reflected in State policy. Were such concepts taken into account in all legislative decisions? He requested clarification of the status of decrees and decisions establishing administrative norms. Did the central administrative body in charge of legal affairs take on the role of a constitutional court in establishing whether decisions establishing norms complied with the Constitution? What happened if a decision was found to be contrary to the Convention? Lastly, what obstacles were preventing Mongolia from ratifying the Convention on the Status of Refugees and its 1967 Protocol?

26. **Mr. Amir** asked whether Mongolian citizens of Kazakh origin took Kazakh citizenship and moved to Kazakhstan for economic reasons, or because there were no restrictions on their movement in Kazakhstan. The report stated that there had been an increase in the number of foreigners residing in Mongolia. Did that include Mongolians of Kazakh origin who had moved back? He asked how the State party reconciled its obligation under article 4 of the Convention to take measures against hate speech with the constitutional right to freedom of expression. According to the core document (HRI/CORE/MNG/2013), Mongolian was the only language of the country. Did Russian and Kazakh children have the right to receive an education in their languages? Lastly, he asked whether Mongolia was waiting for other States to ratify the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons before doing so itself.

27. **Mr. Bossuyt** said that he found it disturbing that the number of foreign nationals living in Mongolia was not permitted to exceed 3 per cent of the population and that no more than 1 per cent could be nationals of a single country. Some members of the Committee had questioned the feasibility of such a rule, but he was more concerned about the principle itself, which was contrary to the Convention. It was surely discriminatory against people who were persecuted and sought asylum. If European Union countries applied such a rule, the result would be mass expulsions. He also expressed concern about the fact that the right to travel abroad could be restricted on the grounds of State security. The principle must be that everybody had the right to leave his or her own country and live elsewhere; it was not for the country of origin to impose restrictions. The report stated that Mongolia adhered to the principle of reciprocity with regard to the status of foreigners, on the basis of bilateral agreements.

With which countries did Mongolia have such agreements, and which rights were covered? Lastly, he noted that the State party claimed that foreigners and stateless persons had the same rights and obligations as Mongolian nationals unless an international treaty provided otherwise. Did any international instruments exclude foreigners and stateless persons from such rights? A number of the facts revealed in the report showed a lack of openness to the rest of the world.

28. **Mr. Lindgren Alves** said that the report mentioned the Kazakhs, the Dukha and the Tuvas as minorities in Mongolia, but he would be interested to know how Russians and Chinese living in the country were regarded, whether as foreigners or as minorities. Why had the State party adopted a national programme to raise the living standards of the Dukha? Had the situation of that group been worse than that of other minority groups in the past? According to the report, the main reason for the movement of Mongolian citizens of Kazakh ethnicity to Kazakhstan was the fact that the latter conducted an open policy in granting citizenship to ethnic Kazakhs and provided financial benefits and allowances. Noting that many countries followed similar policies, he asked whether there was a special reason why the State party should draw attention to that situation. The report mentioned monasteries a few times, apparently referring to religion or Buddhism. Was Buddhism the official religion of Mongolia, or was Mongolia a secular State? Lastly, he asked for clarification about the statement in the report that it was forbidden to establish a party with the purpose of offending authority or scattering national unity.

29. **The Chair** said that he had spoken to representatives of indigenous peoples in Mongolia, who had mentioned the difficulty they faced in going to international meetings, as they required authorization to do so. The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), was of paramount importance to indigenous peoples. Did the State party plan to accede to it? The hunting of certain animals had reportedly been prohibited for both indigenous and non-indigenous peoples because the species in question were at risk of extinction. According to indigenous sources, however, the reason for the threat to such animals was hunting by non-indigenous peoples and the damage caused to their habitat by mining activities. He therefore asked whether there was any possibility of allowing indigenous peoples to carry out traditional hunting activities on a limited scale. Lastly, he asked whether there were any people of African descent living in Mongolia and whether the State planned any activities to commemorate the International Decade for People of African Descent.

30. **Mr. Vázquez** said that he was concerned about reports that workers from the People's Democratic Republic of Korea and China were paid wages below the legal minimum, denied freedom of movement and subjected to harsh working and living conditions. Specifically, a construction company had been under investigation for not paying its foreign workers on time, and apparently the relevant labour inspectorate had been unable to monitor the payment of wages. It was reported that the poverty rate among the ethnic minorities of Mongolia was 47 per cent higher than the national average. The country's economic growth did not seem to be benefiting the poor. Did the Government have any plans or measures to address that problem? He expressed concern about the lack of disaggregated data on minorities' enjoyment of their economic, social and cultural rights and, indeed, the lack of data overall. According to the Government, there were only 16 stateless persons in the country, but UNHCR put the number at tens of thousands. Did the State party intend to accede to the Convention relating to the Status of Stateless Persons? The Committee against Torture had noted that Mongolia still had no law against discrimination or hate crimes. The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) had similarly noted that Mongolia had not provided any information on measures taken against discrimination and hate crimes and had not appointed a focal point on hate crimes since becoming a participating

State. He asked what action the Government had planned to address those issues. Lastly, he asked to what extent indigenous peoples had been consulted on the new law on the hunting of certain animals. He had no objection to the legislation, but said that he hoped that there had been consultation with the affected groups.

31. **The Chair** said that he understood that the Mongolian delegation would prefer to defer answering the questions raised by the Committee to the next meeting.

The meeting rose at 5.15 p.m.