



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Mongolia*

1. The Committee on Economic, Social and Cultural Rights considered the fourth report of Mongolia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MNG/4) at its 26th to 27th meetings (E/C.12/2015/SR.26 and 27), held on 3 and 4 June 2015, and adopted the following concluding observations at its 50th meeting, held on 19 June 2015.

A. Introduction

2. The Committee welcomes the fourth periodic report submitted by the State party despite the considerable delay, the supplementary information provided in the replies to the list of issues (E/C.12/MNG/Q/4/Add.1), the State party's common core document (HRI/CORE/MNG/2013) and the oral replies provided by the delegation and the additional written information. The Committee also welcomes the constructive dialogue held with the State party's delegation.

B. Positive aspects

3. The Committee welcomes the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2010.

4. The Committee also appreciates the ratification of, or accession to, the following international human rights instruments:

(a) International Convention for the Protection of all Persons from Enforced Disappearance, in 2015;

(b) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2012;

(c) Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2009.

* Adopted by the Committee at its fifty-fifth session (1–19 June 2015).



5. The Committee notes with appreciation the following legislative and policy measures taken by the State party:

- (a) Law on Legal Aid to Indigent Defendants (2013);
- (b) Law on Combating Human Trafficking (2012);
- (c) Law on Parliamentary Election (2012);
- (d) Gender Equality Law (2011) and its implementation strategy (2013–2016);
- (e) Law on Information Transparency and the Right to Information (2011);
- (f) National Development Strategy (2007–2021);
- (g) National Programme on Healthy Ageing and the Health of Older Persons (2014–2020);
- (h) State Policy on Education (2014).

C. Principal subjects of concern and recommendations

Legal reform

6. While noting that many laws are currently under review in order to harmonize the State party's legislation with the Covenant, the Committee remains concerned at the slow pace of legal reform and about the limited consultation carried out with civil society.

The Committee recommends that the State party increase its efforts in order to finalize the legal reform process with a view to bringing its legislation into conformity with Covenant provisions. It should also ensure the active participation of civil society throughout the legal reform process.

National human rights institution

7. While appreciating the improved access to the National Human Rights Commission of Mongolia, notably at the provincial level, the Committee remains concerned about the inadequate resources allocated to the Commission and the low level of integration of its recommendations in the drafting of legislation (art. 2 (1)).

The Committee recommends that the State party continue strengthening the capacity of the National Human Rights Commission of Mongolia, as well as increase its resources with a view to ensuring its full independence in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It should also reinforce the integration of the Commission's recommendations in the drafting of legislation.

Herders' rights

8. The Committee is concerned at the adverse impact of mining projects on herders' economic, social and cultural rights and about the inadequacy of the legal framework to protect their rights. It is particularly concerned that:

- (a) Nomadic herders' rights to their pasture, hay land and water resources are continuously infringed owing to mining activities on their traditional lands;
- (b) Free, prior and informed consent of herders is not obtained when licences for mining in their traditional territory are granted;
- (c) Compensation to herders affected by mining projects is not adequate (arts. 1 (2), 2 (2), 11 and 15).

The Committee recommends that the State party:

- (a) **Reform the legal framework governing mining and closely monitor the implementation of related laws, with a view to protecting herders' rights to pasture, hay land and water resources;**
- (b) **Ensure that effective and meaningful consultation is carried out with herders prior to granting mining licences that affect their rights, and guarantee that they are provided with adequate compensation;**
- (c) **Create effective grievance mechanisms that are accessible and affordable to herders affected by mining activities.**

Mining and environmental protection

9. The Committee is concerned about the inadequate legal framework governing the mining sector on environmental protection, as well as about the existence of contradicting laws and the absence of environmental impact assessments.

The Committee urges the State party:

- (a) **As a matter of priority, to reform its laws regulating environmental protection and the mining sector, and in this regard consider implementing the related recommendations of the Working Group on the issue of human rights and transnational corporations and other business enterprises (2013);**
- (b) **To carry out human rights and environmental impact assessment processes before the mining licences are granted and to ensure that all stakeholders affected by such projects effectively participate in the assessment processes.**

Access to justice and public interest litigation

10. The Committee is concerned about the limited access to legal aid centres in rural areas. It also notes that in cases of public interest non-governmental organizations enjoy only limited access to the judicial system, including before the Constitutional Court (art. 2 (1)).

The Committee recommends that the State party increase financial and human resources to legal aid centres, particularly in rural areas. It also recommends that the State party consider granting non-governmental organizations acting in cases of public interest, especially in cases of economic, social and cultural rights, their own standing in judicial proceedings, including before the Constitutional Court.

Corruption

11. The Committee is concerned about the prevalence of corruption within the State party, including in the judiciary and the civil service, despite the adoption of anti-corruption measures (art. 2 (1)).

The Committee urges the State party to redouble its efforts in combating corruption, including in the judiciary and the civil service. It calls upon the State party to guarantee the transparency and independence of its institutions, as well as to investigate all allegations of corruption and ensure the effective implementation of anti-corruption laws. To this end, the State party is requested to implement a zero-tolerance policy against corruption and to make judges, prosecutors and the police aware of their responsibilities with respect to the strict enforcement of the law. It should also protect the human rights of those engaged in anti-corruption activities, in particular victims, whistle-blowers, witnesses and their lawyers.

Non-discrimination

12. While noting that in the Constitution and various laws certain anti-discrimination provisions exist, the Committee is concerned about the absence of a comprehensive anti-discrimination law that covers all grounds of discrimination, including sexual orientation, gender identity and disability (art. 2 (2)).

The Committee recommends that the State party take steps to adopt a comprehensive anti-discrimination law guaranteeing protection for all against discrimination and for the enjoyment of economic, social and cultural rights, and encompassing all prohibited grounds of discrimination, including sexual orientation, gender identity and disability. The Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Discrimination against lesbian, gay, bisexual, transgender and intersex persons

13. The Committee notes with appreciation the information provided by the State party's delegation on the inclusion of sexual orientation as a prohibited ground of discrimination in the draft revised Criminal Code and a draft labour law. It notes with concern, however, the persistence of discrimination against lesbian, gay, bisexual, transgender and intersex persons in the areas of employment, housing, health care and education. Moreover, the Committee is concerned about the lack of recognition of same-sex couples, which impedes their enjoyment of Covenant rights (art. 2 (2)).

The Committee recommends that the State party:

(a) **Take all measures necessary, in particular awareness-raising, to ensure that lesbian, gay, bisexual, transgender and intersex persons are not discriminated against on the basis of their sexual orientation and gender identity;**

(b) **Recognize that same-sex couples are entitled to equal enjoyment of their economic, social and cultural rights.**

Equality between men and women

14. While noting with appreciation the adoption of the Gender Equality Law (2011) supported by an implementing strategy, the Committee is concerned about the persistence of gender stereotypes relating to the roles and responsibilities of men and women in family and society. The Committee is also concerned about the still limited representation of women in the parliament and in decision-making positions. Furthermore, it expresses its concern about the persistence of job announcements that discriminate on the basis of sex, sexual harassment at the workplace and the concentration of women in low-paying sectors (arts. 3 and 7).

The Committee recommends that the State party:

(a) **Intensify its efforts, including through the media and by launching nationwide awareness-raising campaigns and making wider use of temporary special measures, to achieve substantive equality between men and women in the enjoyment of economic, social and cultural rights;**

(b) **Monitor and ensure the effective implementation of the Gender Equality Law and include in its next periodic report information on its impact;**

(c) **Prohibit immediately the practice of job announcements that discriminate on the ground of sex and to this end expedite the adoption of the revised draft labour law and take any other legislative and administrative measures necessary for gender equality at work, including against sexual harassment;**

(d) **Intensify its efforts to facilitate and encourage women's access to jobs that are traditionally dominated by men to eliminate occupational segregation on the basis of sex.**

Unemployment

15. The Committee is concerned about the high rate of unemployment in the State party despite its rapid economic growth. It is particularly concerned at the disproportionate concentration of persons with disabilities, herders and youth among the unemployed (art. 6).

The Committee recommends that the State party take effective measures to reduce the unemployment rate and to ensure that economic growth will be more inclusive. In doing so, it is requested to target in particular those groups that are more vulnerable to unemployment, including persons with disabilities, herders and youth. In this regard, the State party should strengthen enforcement of the existing targeted programmes and special measures, including those under the draft labour law, and adopt and effectively implement other measures, such as incentives for employers, as necessary.

Small-scale miners

16. The Committee is concerned at the situation of many of the herders who lost their livestock and are thus engaged in artisanal and small-scale mining activities. The Committee is concerned that these activities are mostly not regularized and are characterized by poor and unsafe working conditions, including with regard to low income and the use of dangerous chemicals such as mercury (arts. 2 (2), 6, 7 and 12).

The Committee recommends that the State party take the measures necessary, including the creation of an appropriate legal framework, to protect the rights of those engaged in artisanal and small-scale mining. The State party should, among other things and with a view to strengthening and enforcing regulations on mercury-free processing plans, secure access for artisanal and small-scale miners to land and licences. Moreover, it should consider lowering taxes, as necessary, to legalize the activities of such miners.

Working conditions

17. The Committee expresses its concern about the low level of health and safety standards, particularly in the road construction, energy and mining industries, and about the prevalence of fatal accidents, despite the fact that some legislative measures have been taken to address the issue. The Committee is also concerned about the limited number of labour inspectors (art. 7).

The Committee urges the State party to ensure rigorous enforcement of existing occupational, health and safety laws and regulations, as well as the development and adoption of other measures, as necessary, including ratification of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), of the International Labour Organization (ILO). The Committee also recommends that the State party increase the number of adequately trained labour inspectors and ensure their even distribution throughout the State party.

Economic exploitation of children

18. The Committee is concerned about the persistence of child labour, particularly in rural areas, agriculture and private businesses. It is also concerned that children continue to be engaged in dangerous and hazardous work, notably in mining and horseracing (art. 10).

The Committee recommends that the State party take effective measures to prevent and investigate child labour. It recommends that it redouble its efforts in addressing the engagement of children in dangerous and hazardous work, including through the strict implementation of Governmental Order No. 107, which aims to prohibit child involvement in such work, and by raising the minimum age for horseracing with a view to bringing it in compliance with international standards.

Trade union rights

19. The Committee is concerned that trade union rights are not always secured and that workers in big mining companies risk dismissal for engaging in trade union activities (art. 8).

The Committee recommends that the State party ensure that provisions governing trade union rights are incorporated in the revised draft labour law and in other legislation where necessary, and ensure their strict implementation.

Social security

20. The Committee is concerned about the lack of universal social security coverage in the State party. The Committee expresses concern, in particular, about the fragmentation of the existing social security programmes, which have failed to meet the needs of the poorest in society. The Committee is also concerned about the inadequacy of social security benefits (art. 9).

The Committee recommends that the State party expedite the finalization of the social security system reform and ensure that social protection schemes are implemented on a non-discriminatory basis and are targeted at the most vulnerable groups and individuals. In this regard, it requests the State party to:

- (a) **Strengthen its consultation with social partners and rights holders;**
- (b) **Guarantee that social benefits are indexed to the cost of living and allow adequate standard of living for beneficiaries and their families;**
- (c) **Set up a social protection floor to comply with its obligation to implement the right to social security, in line with the Committee's general comment No. 19 (2008) on the right to social security, ILO Social Protection Floors Recommendation, 2012 (No. 202), and the Committee's statement on social protection floors (E/C.12/2015/1);**
- (d) **Expedite accession to ILO Social Security (Minimum Standards) Convention, 1952 (No. 102).**

Violence against women and children

21. The Committee reiterates its concern about the prevalence of domestic violence against women and children in the State party, despite the legislative and other measures taken. The Committee is also concerned about the limited number of prosecutions carried out under the Law on Combating Domestic Violence, as well as about the limited awareness of the Law and the inadequacy of protection facilities and services available to victims of violence (art. 10).

The Committee recommends that the State party take measures to ensure effective enforcement of the Law on Combating Domestic Violence. It should prosecute offenders and guarantee effective protection of and assistance to victims, including by providing a sufficient number of shelters in rural and remote areas and supporting the efforts of civil society. The Committee calls on the State party to conduct educational and training programmes for judicial authorities, law enforcement officials and social workers on the Law and on women's rights.

Poverty

22. The Committee is concerned that despite strong economic growth, the rate of poverty has increased in recent years in the State party, especially among women, children, persons with disabilities and herders living in remote areas. The Committee is also concerned about the ineffectiveness of measures to address poverty, notably due to the fragmentation of programmes and a lack of coordination at the governmental level (arts. 2 and 11).

Recalling its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10), the Committee urges the State party to:

(a) **Adopt measures to take advantage of economic growth to reduce poverty, for example by ensuring that the mining industry's revenues are enjoyed by all Mongolians;**

(b) **Adopt a national poverty-reduction strategy that is based on human rights norms, is integrated in provincial and local development plans and is supported by implementation mechanisms with time-bound benchmarks and monitoring tools;**

(c) **Identify a lead ministry that is responsible for implementing the poverty-reduction strategy and for establishing and enforcing appropriate monitoring and accountability mechanisms.**

Access to adequate housing

23. The Committee is concerned about the shortage of housing units in the State party, especially in urban areas, and about the emergence, as a result of increased internal migration, of informal settlements around urban areas that are characterized by poor living conditions and scarce access to basic services. The Committee is also concerned about the negative impact of the Ger area redevelopment regulation on persons whose land is subject to redevelopment, for example in the form of forced evictions, especially on those who do not have a legal title to their land, do not receive adequate compensation and are not provided with alternative accommodation in areas with basic social services (art. 11).

Recalling its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, the Committee recommends that the State party:

(a) **Redouble its efforts to increase housing units for the population, including social housing for disadvantaged and marginalized individuals and groups, particularly in urban areas, with a view to decreasing the number of persons living in informal settlements;**

In the interim, take effective measures to improve the living conditions in these areas by, among other things, enhancing access to basic services, including water, sanitation, education and health care;(b)

(c) **Amend the Ger area redevelopment regulation as necessary with a view to ensuring that it does not adversely impact the Ger population's right to adequate housing, including with regard to security of tenure and protection from forced**

evictions, without adequate compensation or the provision of alternative accommodation in areas with access to basic social services;

(d) **Develop a legal framework concerning forced evictions that is compliant with international standards.**

Right to food

24. The Committee is concerned about the imbalanced diet of many Mongolians, the restrictions imposed on independent food laboratories to inform the population about food safety issues and the information about the large amount of pesticides in vegetables. The Committee is further concerned about the low value of food vouchers and their limited distribution (art. 11).

The Committee recommends that the State party:

(a) **Redouble its efforts to ensure access to safe, adequate and affordable food, including by intensifying its healthy diet campaigns, also with a view to combating obesity and the root causes of cardiovascular diseases;**

(b) **Intensify its efforts to address food insecurity and hunger, including by distributing food vouchers that meet the nutritional standards of all those in need while ensuring that any targeting of the food vouchers programme does not lead to the exclusion of certain households in need;**

(c) **Reinforce the independence of the State laboratory, including by improving its human and technical resources and removing any restrictions on the ability of non-State food laboratories to provide information to the population;**

(d) **Take effective measures to prevent, deter and investigate cases of pesticides in food;**

(e) **Take into consideration the Committee's general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted in 2004 by the Food and Agriculture Organization of the United Nations.**

Water and sanitation

25. The Committee expresses concern about the disparity between rural and urban areas with regard to access to safe drinking water and sanitation. It is also concerned about the high price of water in Ger areas. The Committee is moreover concerned that mining activities have caused soil and water contamination (arts. 11 and 12).

Recalling its general comment No. 15 (2002) on the right to water and its statement on the right to sanitation (E/C.12/2010/1), the Committee urges the State party to address the disparity in access to safe drinking water and sanitation between populations living in rural and urban areas and to ensure that safe drinking water is affordable for everyone. Furthermore, the Committee recommends that the State party redouble its efforts to address the impact of mining activities on water and soil.

Air pollution and health

26. The Committee is extremely concerned about the increasing levels of air pollution, particularly in Ulaanbaatar and in Ger areas, and about the subsequent emergence and spread of diseases, including respiratory, heart and lung diseases (arts. 11 and 12).

The Committee recommends that the State party take effective measures to address the increasing levels of air pollution and the worsening health situation of people in Ulaanbaatar and in Ger areas, including by introducing in those areas new heating systems that are energy efficient.

HIV/AIDS and other illnesses

27. The Committee is concerned about the insufficient measures taken to prevent HIV/AIDS in the State party, including the limited implementation of laws on health care and HIV/AIDS prevention and related policies. It is also concerned at the practice of mandatory testing for HIV/AIDS. The Committee is further concerned about the high prevalence of liver cancer, attributed to widespread alcohol abuse, as well as the spread of hepatitis B and C, despite the fact that some measures have been taken to address the issue (art. 12).

The Committee recommends that the State party reinforce its measures to prevent HIV/AIDS, including through the re-establishment of the National Committee on AIDS and the effective implementation of related laws and policies. It requests the State party to take legislative and any other measures necessary to ensure that HIV/AIDS testing is voluntary and confidential. The Committee also recommends that the State party intensify its efforts aimed at combating alcohol abuse, including through awareness-raising campaigns, and redouble its preventive and treatment measures to combat hepatitis B and C.

Right to education

28. The Committee is concerned that nearly 5 per cent of children aged 6–11 are not enrolled in primary school. It is also concerned that boys, children living in remote areas and children belonging to minority groups are overrepresented among those dropping out of school. The Committee is further concerned about the reported deteriorating quality of education in schools in Ulaanbaatar, about schools' poor infrastructure and about overcrowded classes (arts. 13 and 14).

The Committee recommends that the State party intensify its efforts to:

- (a) **Ensure that all children are enrolled in school;**
- (b) **Address more effectively the factors identified as root causes of persisting school dropout rates, in particular among boys and children living in remote areas and belonging to minority groups;**
- (c) **Allocate sufficient resources to meet children's right to education in Ulaanbaatar, including by constructing new schools, improving educational materials and training school teachers and personnel;**
- (d) **Conduct campaigns to raise awareness of the importance of education, especially among parents.**

Inclusive education

29. The Committee is concerned that many schools are not accessible to children with disabilities, especially in rural areas, and that many of these children do not attend school. The Committee is further concerned about the lack of teachers trained in working with children with disabilities (arts. 2 (2), 13 and 14).

The Committee recommends that the State party address access to inclusive education by children with disabilities, including through the compulsory training of teachers, the development of individual education plans for students; barrier-free physical

access to schools and their facilities, and the allocation of sufficient financial resources.

Cultural rights

30. The Committee is concerned about the inadequate implementation of the National Policy for Arts and Culture (2011), mainly owing to the limited allocation of resources. It is also concerned that efforts to preserve the cultural heritage of the State party are not sufficient despite the fact that measures have been taken to address the issue (art. 15).

The Committee recommends that the State party allocate the resources necessary for the effective implementation of the National Policy for Arts and Culture. It is also requested to step up its efforts and increase its investment in preserving the cultural heritage, including by monitoring and ensuring the strict implementation of the Law on Protection of Cultural Heritage (2014).

D. Other recommendations

31. The Committee recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

32. The Committee recommends that the State party step up its efforts in raising the awareness of the members of the judiciary, the lawyers and the rights holders, of the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, as well as the justiciability of those rights. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

33. The Committee requests the State party to translate the present concluding observations into Mongolian and to disseminate them widely at all levels of society, particularly among parliamentarians, public officials, judicial authorities and rights holders, and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of implementing the present concluding observations, prior to the submission of its next periodic report.

34. The Committee requests the State party to submit its fifth periodic report by 30 June 2020, and invites the State party to update its common core document, as required, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).
