



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fifth periodic report of Mongolia*

1. The Committee considered the fifth periodic report of Mongolia¹ at its 33rd and 35th meetings,² held on 27 and 28 September 2022, and adopted the present concluding observations at its 60th meeting, held on 14 October 2022.

A. Introduction

2. The Committee welcomes the submission by the State party of the fifth periodic report, based on the list of issues prior to reporting drawn up by the Committee.³ The Committee expresses its appreciation to the State party for having accepted the simplified reporting procedure, as it provides an opportunity for focused consideration of the report and dialogue with the delegation. The Committee appreciates the constructive dialogue that it held with the State party's delegation.

B. Positive aspects

3. The Committee welcomes the legislative, institutional and policy measures taken to increase the protection of economic, social and cultural rights in the State party, such as the law on preventing, combating and reducing the social and economic impact of the coronavirus disease (COVID-19) (2020), the national programme on reducing air pollution and environmental pollution (2017) and the measures mentioned in the present concluding observations.

C. Principal subjects of concern and recommendations

Domestic application of the Covenant

4. While noting that the Covenant forms an integral part of the State party's national legal framework, the Committee is concerned that no provisions of the Covenant were invoked in the reporting period. The Committee is also concerned that even though the State party ratified the Optional Protocol to the Covenant in 2010, no complaints have been received about the State party under the Optional Protocol's communications procedure.

5. **The Committee recommends that the State party intensify its efforts to familiarize judges, magistrates, lawyers, civil society organizations and the general public with the Covenant and the communications procedure under the Optional**

* Adopted by the Committee at its seventy-second session (26 September–14 October 2022).

¹ [E/C.12/MNG/5](#).

² [E/C.12/2022/SR.33](#) and [E/C.12/2022/SR.35](#).

³ [E/C.12/MNG/QPR/5](#).



Protocol thereto. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

National human rights institution

6. The Committee welcomes the adoption of the revised Law on the National Human Rights Commission of Mongolia (2020) and that the number of members of the Commission has been increased from three to seven. However, it is concerned about reports that the Commission's human, technical and financial resources are inadequate for it to fully and effectively implement its mandate.

7. The Committee recommends that the State party allocate adequate human, technical and financial resources to the National Human Rights Commission of Mongolia to enable it to discharge its mandate effectively and independently, including in promoting and protecting the economic, social and cultural rights enshrined in the Covenant, and in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Business and economic, social and cultural rights

8. While noting that a national action plan is being developed to implement the Guiding Principles on Business and Human Rights, the Committee is concerned about the absence of legal obligations for businesses under the State party's jurisdiction to exercise human rights due diligence. The Committee is also concerned that environmental impact assessments and consultations with affected local communities in the context of mining and other development projects are not always effective and do not always prevent violations of obligations under the Covenant. The Committee is further concerned about the inadequacy of the legal framework to protect nomadic herders from the adverse impact of mining activities on their pastures, hay lands, water resources and ancient nomadic pastoralist culture.

9. The Committee recommends that the State party:

(a) **Finalize and adopt the national action plan on business and human rights, and ensure that human rights due diligence is integral to the plan and is exercised by business entities in the meantime until the plan is adopted;**

(b) **Ensure that effective human rights and environmental impact assessments and meaningful consultations with affected local communities are carried out in the process of granting permits for all energy, mining, heavy industry, transportation and infrastructure projects;**

(c) **Ensure that business entities operating under the State party's jurisdiction are held accountable for violations of economic, social and cultural rights for which they are responsible, and that victims of such violations have access to affordable and effective remedies;**

(d) **Implement the Committee's previous recommendation in this regard by reforming the legal framework governing mining and by closely monitoring the implementation of related laws, with a view to protecting herders' rights to pasture, hay land and water resources;⁴**

(e) **Refer to the Committee's general comment No. 24 (2017) on State obligations under the Covenant in the context of business activities, and to the Guiding Principles on Business and Human Rights.**

Human rights defenders

10. While noting that the Law on the Legal Status of Human Rights Defenders was adopted in 2021, the Committee is concerned:

⁴ E/C.12/MNG/CO/4, para. 8.

(a) About reports of harassment, intimidation and reprisals against human rights defenders, including those working to defend economic, social and cultural rights, by government authorities and private corporations;

(b) That the Law on the Legal Status of Human Rights Defenders includes provisions that could be used by the authorities to hinder or delegitimize the work of human rights defenders, such as article 8.1.3, which prohibits defenders from defaming the honour, reputation and fame of others;

(c) About reports that provisions of the Criminal Code related to cooperation with foreign intelligence agencies (article 19.4) and sabotage (article 19.6) have been used to prosecute human rights defenders for legitimate activities, and, in this context, reports that human rights defender Sukhgerel Dugersuren is being prosecuted under the Criminal Code for expressing concerns about the environmental and social impact of a large-scale development project.

11. The Committee recommends that the State party:

(a) **Effectively address threats, attacks, harassment and intimidation against human rights defenders, by government authorities and private corporations, including by thoroughly, promptly and independently investigating human rights violations and abuses against them, bringing the perpetrators to justice in fair trials and providing effective remedies and adequate reparation to the victims;**

(b) **Ensure that the Law on the Legal Status of Human Rights Defenders is implemented so as to empower human right defenders to the greatest extent possible, and put in place safeguards to ensure that provisions of that Law, of the Criminal Code and of any other legislation are not used to prosecute and punish human rights defenders for legitimate activities;**

(c) **Carry out awareness-raising campaigns that highlight the importance of the work of human rights defenders, so that they can pursue their activities without fear of intimidation, threats or reprisals of any kind;**

(d) **Urgently investigate cases in which human rights defenders are criminalized, including that of Sukhgerel Dugersuren, and ensure that she is not being criminalized for expressing concerns about the environmental and social impact of any development projects;**

(e) **Refer to the Committee's statement on human rights defenders and economic, social and cultural rights, adopted in 2016.⁵**

Corruption

12. While welcoming the information on the State party's activities under the national anti-corruption programme and about the increase in punishments handed down for corruption, the Committee is concerned about reports that corruption remains prevalent.

13. The Committee recommends that the State party further intensify the fight against corruption and evaluate and further strengthen the national anti-corruption programme. The Committee also recommends that the State party establish safe and accessible channels for reporting corruption, and adopt measures to ensure the protection of anti-corruption activists, whistle-blowers and witnesses.

Maximum available resources

14. While noting the explanation provided by the State party and acknowledging the impact of the COVID-19 pandemic on its economy, the Committee regrets that the poverty level has not been reduced further below 27.8 per cent, as recorded in 2020, in particular in the light of the doubling of its gross domestic product over the past 15 years (art. 2 (1)).

15. The Committee recommends that the State party review its policies, including its fiscal policy, with a view to increasing their redistributive effect and improving its

⁵ E/C.12/2016/2.

capacity to mobilize domestic resources for poverty reduction, in particular in rural areas. The Committee also recommends that the State party review its poverty reduction programme and ensure its effective implementation.

Non-discrimination

16. While noting the information provided by the State party that its Constitution contains anti-discrimination provisions, the Committee is concerned about reports that discrimination continues to occur in practice, including against asylum-seekers, refugees and stateless persons. The Committee regrets the absence of a comprehensive anti-discrimination law that covers all grounds of discrimination, including against all marginalized and disadvantaged individuals and groups (art. 2 (2)).

17. **With reference to its previous recommendations,⁶ the Committee recommends that the State party take steps to adopt a comprehensive anti-discrimination law guaranteeing protection against all forms of direct and indirect discrimination, including on the grounds of disability, and recognize in its legislation the denial of reasonable accommodation as a form of discrimination, in order to ensure equal access to all economic, social and cultural rights. The Committee also recommends that the State party accede to the Convention relating to the Status of Refugees (1951), the Protocol relating to the Status of Refugees (1967), the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).**

Rights of lesbian, gay, bisexual, transgender and intersex persons

18. The Committee is concerned about reports that discrimination, stigmatization and harassment against lesbian, gay, bisexual, transgender and intersex persons is widespread, including in employment and education, which hinders their enjoyment of economic, social and cultural rights. The Committee is also concerned that, in spite of the prohibition of discrimination based on sexual orientation and gender identity, victims of such discrimination face challenges in gaining access to justice. The Committee is further concerned about the lack of awareness among health professionals of health-care issues specific to transgender persons (art. 2 (2)).

19. **The Committee recommends that the State party:**

(a) **Take all the measures necessary to prevent and address discrimination, stigmatization and harassment against lesbian, gay, bisexual, transgender and intersex persons in all areas of life, including by conducting awareness-raising campaigns for the general public, health-care providers, teachers, employers, social workers, and law enforcement and other public officials with a view to eliminating negative stereotypes and stigmatization in this context;**

(b) **Ensure that the prohibition of discrimination based on sexual orientation and gender identity is effectively implemented and continue capacity-building for judges, prosecutors, lawyers and law enforcement officials to this end;**

(c) **Raise awareness among health-care providers of health-care issues specific to transgender persons and adopt and implement the eleventh revision of the International Statistical Classification of Diseases and Related Health Problems, which, inter alia, removes the labelling of certain such issues as mental health conditions.**

Equal rights of men and women

20. While welcoming the removal from the Labour Code of the list of jobs prohibited for women, the Committee is concerned:

(a) That women hold only a minority of leadership and decision-making positions in the State party;

⁶ E/C.12/MNG/CO/4, para. 12.

(b) That the minimum percentage quotas for women members of parliament set by the law are not fulfilled;

(c) About the insufficient measures to reconcile parents' childcare and family responsibilities with their professional lives, to the disadvantage of women's employment;

(d) About the persistence of deep-rooted patriarchal attitudes and discriminatory stereotypes in the State party, which are an obstacle to the equal enjoyment by women of economic, social and cultural rights (art. 3).

21. The Committee recommends that the State party:

(a) **Promote the appointment of women to leadership and decision-making positions, including through temporary special measures;**

(b) **Ensure that quotas for women members of parliament are fulfilled;**

(c) **Ensure sufficient and affordable day-care solutions for children and other measures to help women and men reconcile their professional and family lives;**

(d) **Intensify campaigns aimed at the general public with a view to changing patriarchal attitudes and discriminatory stereotypes, notably by running awareness-raising campaigns that encourage the equal sharing of family responsibilities between men and women.**

Right to work

22. While noting the State party's efforts to reduce unemployment, the Committee regrets the lack of statistics on the impact of the measures taken and is concerned about reports of continuing high unemployment rates among youth, herders and persons with disabilities (art. 6).

23. The Committee recommends that the State party:

(a) **Continue its efforts to reduce unemployment and underemployment and ensure that its policies tackle their root causes, in particular among youth, herders and persons with disabilities, including by taking targeted positive measures and facilitating their access to technical and vocational training opportunities;**

(b) **Establish a national mechanism to monitor and evaluate the implementation of employment strategies, including its efforts to increase employment opportunities in rural areas;**

(c) **Ensure that it collects disaggregated data on employment, underemployment and unemployment, and provide updated statistics in its next periodic report, disaggregated by sex, age, geographical area, disability, ethnic origin, and residence or documentation status.**

Right to just and favourable conditions of work

24. While noting the various positive measures taken by the State party to increase labour inspections, the Committee is concerned about:

(a) Reports that up to 25 per cent of employed workers are unable to enjoy an adequate standard of living despite being in employment;

(b) The slow progress in formalizing the employment of workers in the informal economy;

(c) The lack of information on the impact of the revised labour legislation (2021) on reducing sexual harassment in the workplace;

(d) The lack of information on comprehensive health and safety measures to protect all persons from COVID-19 in the workplace (art. 7).

25. **The Committee recommends that the State party:**

- (a) **Ensure that all persons in full-time employment receive salaries that allow for an adequate standard of living, and collect statistics on the number of workers for whom this is not the case;**
- (b) **Intensify efforts to accelerate the formalization of the employment of workers in the informal economy;**
- (c) **Work together with employers to fully implement the revised labour legislation and its provisions prohibiting sexual harassment, including by raising awareness about the issue and developing effective policies and complaints mechanisms;**
- (d) **Ensure that appropriate regulations and policies are in place to protect the health in the workplace of all persons in the State party in the context of the COVID-19 pandemic, including by providing adequate amounts of personal protective equipment;**
- (e) **Refer to the Committee's general comment No. 23 (2016) on the right to just and favourable conditions of work.**

Trade union rights

26. The Committee is concerned about the lack of information on the protection of trade union rights in the State party, including in the context of the COVID-19 pandemic, and in particular on measures taken to ensure that business entities, especially mining companies, respect the rights of workers to form trade unions and to strike (art. 8).

27. **The Committee recommends that the State party take measures to ensure that workers, including those in the mining sector, are free to form and join trade unions and to exercise their trade union rights, including the right to strike, which are protected under article 8 of the Covenant. The Committee also recommends that the State party take measures to ensure that all violations of trade union rights are thoroughly investigated.**

Right to social security

28. The Committee welcomes the increase in social security spending by the State party in recent years, but notes with concern that despite these measures the number of people living in poverty or at risk of poverty has decreased only slightly. While noting that pensions have been increased with the intention of adapting them to inflation, the Committee is concerned about reports that the average monthly pension does not cover the minimum subsistence level for retired persons (art. 9 and 11).

29. **The Committee recommends that the State party evaluate the effectiveness of its social security system, including with regard to its ability to meaningfully improve the situation of persons living in poverty or at risk of poverty. The Committee also recommends that the State party ensure that the monthly pension covers the minimum subsistence level for retired persons. The Committee refers the State party to its general comment No. 19 (2007) on the right to social security.**

Protection of the family and children

30. The Committee is concerned that domestic violence is widespread despite the adoption of the revised Law to Combat Domestic Violence in 2016. The Committee is also concerned about the reported prevalence of and increase in sexual abuse and rape of women and children (art. 10).

31. **The Committee recommends that the State party:**

- (a) **Intensify its efforts to effectively implement the Law to Combat Domestic Violence, including by providing training to judges, prosecutors, police, social workers, psychologists, health-care workers and others involved in its implementation, including on how to conduct an assessment of the threat of domestic violence in a way that is**

effective and protects victims, and by strengthening support services for women who are survivors of gender-based violence;

(b) **Review the legal framework that protects women and children from sexual abuse and rape and ensure that it is adequate, improve mechanisms to support the recovery and reintegration of victims, enhance knowledge about prevention from sexual abuse among the general public and enhance sexual education among boys and girls.**

Right to adequate housing

32. While noting that the State party is not aware of any official complaints since 2015 linked to projects to replan and rebuild ger districts, the Committee is concerned about reports that:

(a) Forced evictions have resulted in homelessness in this context since 2015;

(b) Individuals affected by redevelopment are vulnerable to violations of human rights, including the right to adequate housing, owing to the absence of clear and adequate government regulations, effective consultation and monitoring;

(c) Individuals negatively affected by the replanning of ger districts have inadequate means to raise complaints and seek settlement of disputes;

(d) Human rights activists who publicly criticize the replanning of ger districts, or certain aspects of it, are physically attacked and harassed by law enforcement authorities and private corporations (art. 11).

33. **The Committee recommends that the State party take measures to ensure:**

(a) **That all complaints of violations of the right to adequate housing, including in the context of the replanning of ger districts, are effectively investigated and followed up;**

(b) **That any evictions or forced resettlements that do take place are carried out as a last resort only and in conformity with the provisions of the international covenants on human rights, including by ensuring that procedural protections and safeguards are respected, such as conducting genuine consultations, ensuring adequate and reasonable notice, providing adequate compensation and ensuring the availability of adequate alternative accommodation and access to basic services;**

(c) **The availability and accessibility of affordable means of redress for individuals negatively affected by the replanning project.**

Rights to water and to sanitation

34. The Committee notes the steps taken by the State party to improve access to safe water and sanitation, but remains concerned about the disparity between rural and urban areas in access to safe drinking water and sanitation, including in schools. While also noting a range of initiatives taken to reduce water pollution, the Committee is concerned that such pollution continues to be a serious problem, in particular in connection with mining activities, and that it is linked to above-average rates of babies born with disabilities in some areas. The Committee also regrets the insufficient amount of clear information available to the public about drinking water quality (arts. 11–12).

35. **The Committee urges the State party to take further measures and provide sufficient financial resources to ensure access to safe drinking water and sanitation for everyone in the State party, including in rural areas and in all schools. The Committee also urges the State party to take further measures to address the impact of water and soil pollution, in particular pollution resulting from mining activities. The Committee further recommends that the State party ensure the availability to the public of clear information about drinking water quality and raise awareness among the public on where to find such information.**

Environmental pollution and climate change

36. While welcoming the measures taken that have led to a decrease in air pollution in Ulaanbaatar, the Committee is concerned that air pollution levels remain high, in particular in *ger* areas, and continue to result in the spread of disease, including respiratory, heart and lung diseases. The Committee is also concerned about the lack of information on adaptation measures taken to address the negative impact of climate change on the enjoyment by the population of economic, social and cultural rights (arts. 11–12).

37. **The Committee recommends that the State party:**

(a) **Continue to take measures to reduce air pollution and expedite efforts to introduce energy-efficient heating systems and environmentally friendly energy sources;**

(b) **Ensure that persons whose health has been affected by air pollution have immediate and effective access to the necessary health-care services;**

(c) **Raise awareness among the public about the health risks of air pollution and provide them with information on personal protection measures;**

(d) **Develop a human rights-based adaptation strategy aimed at countering the impact of climate change on the enjoyment by the population of economic, social and cultural rights, including on food security.**

Right to adequate food

38. The Committee notes the various measures taken by the State party to provide safe food and healthier diets to the population. It regrets, however, that no information is currently available to assess the impact of these activities on food safety and on overweight and obesity rates, which, according to the latest information available, are already high and increasing (arts. 11–12).

39. **The Committee recommends that the State party evaluate the impact of its measures to promote healthier diets and continue or amend as appropriate the measures taken to reduce the high overweight and obesity rates. The Committee also recommends that the State party build capacity and increase investments for the implementation of sustainable food systems. The Committee refers the State party to its 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 by the Council of the Food and Agriculture Organization of the United Nations in 2004.**

Right to physical and mental health

40. The Committee is concerned about the substantial increase in recent years in alcohol abuse and mental health conditions. The Committee notes the information provided by the State party on steps that it is taking to address these phenomena, such as placing mental health practitioners in schools, but is nonetheless concerned about the lack of information on measures taken to address their root causes, and on whether the steps taken by the State party are sufficient to reverse these worrying trends (art. 12).

41. **The Committee recommends that the State party:**

(a) **Intensify efforts to identify and address socioeconomic and other causes of the increase in alcohol abuse and mental health conditions;**

(b) **Devise strategies to both effectively treat these conditions and address their root causes, including by increasing the availability of mental health care and services for preventive and early intervention;**

(c) **Ensure that it regularly evaluates the progress and success of its measures and promptly makes appropriate changes if required;**

(d) **Refer to the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health.**

Right to sexual and reproductive health

42. While noting the efforts undertaken by the State party, the Committee is concerned that adolescent girls continue to face barriers to access to sexual and reproductive health services and information, and that women's and girls' access to affordable modern contraceptives remains limited, in particular in rural areas (art. 12).

43. **The Committee recommends that the State party take further measures to ensure the availability and affordability of sexual and reproductive health information and services for all, including contraceptives, in particular in rural areas. The Committee also recommends that the State party include and effectively implement age-appropriate education on sexual and reproductive health in school curricula. The Committee refers the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.**

Right to education

44. The Committee notes the various steps taken by the State party to promote inclusive education. It is nonetheless concerned about reports that barriers to the inclusion of some children with disabilities in mainstream schools remain, including with respect to financial resources. The Committee is also concerned about reports that education in some rural areas is of a lower quality than in urban areas (arts. 13–14).

45. **The Committee recommends that the State party intensify its efforts to achieve universal access to quality education at all levels, including by:**

(a) **Taking further measures to effectively implement inclusive education, including by ensuring that standards and procedures for inclusive education are developed and effectively applied;**

(b) **Allocating adequate financial resources and ensuring the provision of accessible and inclusive learning environments, buildings and educational materials, reasonable accommodation and individualized support;**

(c) **Further strengthening capacity-building and methodological support to teachers;**

(d) **Ensuring the quality of education throughout the State party, including in rural areas.**

Cultural rights

46. The Committee is concerned that the rules and practices of registration of Mongolian cultural heritage do not guarantee that all ethnic groups in the State party are reflected as part of its official cultural heritage (art. 15).

47. **The Committee recommends that the State party ensure that its policies on culture and cultural heritage entail the preservation and promotion of the culture, languages and traditions of all the ethnic and linguistic groups that compose its population.**

D. Other recommendations

48. **The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

49. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, including in the recovery from the COVID-19 pandemic. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements.**

Moreover, the Committee recommends that the State party support the global commitment to the decade of action for sustainable development. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind.⁷

50. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including in the capital city and at the *aimag* (province) and *soum* (district) levels, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee emphasizes the crucial role that parliament plays in implementing the present concluding observations and encourages the State party to ensure its involvement in future reporting and follow-up procedures. The Committee encourages the State party to engage with the National Human Rights Commission of Mongolia and with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

51. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 9 (business and economic, social and cultural rights), 11 (human rights defenders) and 15 (maximum available resources) above.

52. The Committee requests the State party to submit its sixth periodic report in accordance with article 16 of the Covenant by 31 October 2027, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

⁷ E/C.12/2019/1.