



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-third and twenty-fourth periodic reports of Mongolia*

1. The Committee considered the combined twenty-third and twenty-fourth periodic reports of Mongolia (CERD/C/MNG/23-24), submitted in one document, at its 2753rd and 2754th meetings (see CERD/C/SR.2753 and 2754), held on 15 and 16 August 2019. At its 2769th meeting, held on 27 August 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the combined twenty-third and twenty-fourth periodic reports of Mongolia and commends the State party for its timely reporting. The Committee also welcomes the open and constructive dialogue with the delegation of Mongolia, as well as its efforts to provide answers and replies to issues raised by Committee members during the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2015.

4. The Committee also welcomes the following legislative and policy measures taken by the State party:

(a) The Law on Civil Service, in 2017, which contains provisions prohibiting discrimination;

(b) The revised Criminal Code and Criminal Procedure Code, in 2015, which contain provisions related to the criminalization of discrimination based on nationality, ethnicity or race;

(c) The Amendment Law to the Law of Mongolia on Labour, in 2015, which contains provisions related to the protection of migrant workers.

C. Concerns and recommendations

Data collection

5. The Committee takes note of the data provided by the State party in relation to the age groups, employment and education of the Kazakhs, Tuvas and Tsaatans (Dukhas), drawn from the 2015 Population and Housing Census, but regrets the absence of recent,

* Adopted by the Committee at its ninety-ninth session (5–29 August 2019).



reliable and comprehensive socioeconomic data for all ethnic groups – including national ethnic minorities, indigenous peoples and migrants, including asylum seekers, refugees and stateless persons – collected systematically in all fields in which racial discrimination may exist and special measures be required (art. 2).

6. Recalling its revised reporting guidelines (CERD/C/2007/1, paras. 10 and 12), the Committee recommends that the State party adopt a consistent methodology to collect disaggregated data that would allow the State party and the Committee to determine the existence of racial discrimination and to assess the impact of measures taken over time. The Committee requests that the State party provide in its next periodic report data on socioeconomic indicators, including those relating to wages, poverty and life expectancy rates, as well as the environmental health indicators of all ethnic groups, indigenous peoples and migrants, including asylum seekers, refugees and stateless persons, on the basis of self-identification of persons and groups.

Anti-discrimination legislation

7. The Committee takes note of the information provided by the State party indicating the existence of 34 laws in Mongolia prohibiting racial discrimination according to research conducted by the National Legal Institute. However, the Committee reiterates its previous concern at the lack of any specific legislation containing a definition of racial discrimination in accordance with article 1 of the Convention and prohibiting all forms of racial discrimination (art. 1).

8. The Committee reiterates its previous recommendation (CERD/C/MNG/CO/19-22, para. 9) that the State party adopt specific and comprehensive legislation that defines racial discrimination in accordance with article 1 of the Convention and prohibits all forms of racial discrimination.

National human rights institution

9. The Committee takes note of information provided by the State party that amendments were being made to the Law on the National Human Rights Commission with a view to preserving its independence and fulfilling requirements set for the candidates for the position of Commissioner. However, the Committee is concerned about the lack of adequate funding and human resources to enable the Commission's effective functioning (art. 2).

10. The Committee recommends that the State party ensure that the proposed amendments to the Law on the National Human Rights Commission are in line with the creation of an independent national human rights commission that fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee recommends that the State party allocate adequate human and financial resources to the National Human Rights Commission to enable it to discharge its mandate effectively and independently in full compliance with the Paris Principles.

Racist hate speech

11. The Committee remains concerned at the lack of legislation in the State party, including the revised Criminal Code, that prohibits racist hate speech in conformity with article 4 of the Convention. The Committee takes note that the revised Criminal Code contains a section criminalizing hate speech that could lead to the disruption of national unity. The Committee is also concerned at the rise of hate speech related to racial discrimination on social media and, in particular, on social networks, which was observed in the context of the 2017 presidential elections, and at the lack of information regarding complaints made by victims of such racist hate speech and the prosecution of perpetrators (art. 4).

12. The Committee reiterates its previous recommendation (CERD/C/MNG/CO/19-22, para. 15) that the State party amend its existing legislation to include provisions prohibiting racist hate speech in accordance with article 4 of the Convention, explicitly prohibiting, as offences: (a) all dissemination of ideas based on racial

superiority or hatred; (b) incitement to racial discrimination; and (c) acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. The Committee recommends that the State party ensure that the provisions of the Criminal Code regarding disruption of national unity is not interpreted or implemented in such a way as to prevent members of ethnic minorities or other groups protected by the Convention from asserting the rights that are guaranteed to them by the Convention or to punish any criticism of leaders, or their policies or actions.

Organizations that promote racial discrimination

13. The Committee takes note of the information provided by the State party indicating that the draft law on non-governmental organizations contains provisions prohibiting such entities from conducting activities that promote discrimination, and providing for their dissolution. However, the Committee is concerned about the existence of a number of ultra-nationalist organizations and groups that are publicly using and promoting hate speech against people of foreign origin. While noting the explanation provided by the State party regarding the dissolution of registered organizations, including Dayar Mongol, the Committee is also concerned about the lack of information on the outcome of the investigations, prosecutions and sanctions imposed on such entities (arts. 4 and 7).

14. **The Committee recommends that the State party ensure that the provisions of the draft law on non-governmental organizations related to the prohibition and dissolution of organizations promoting and inciting racial discrimination are in accordance with article 4 of the Convention. The Committee recommends that the State party effectively apply its legislation, including by declaring illegal and prohibiting all legally registered organizations that promote racist hatred or ideas of racial superiority.**

Asylum seekers, refugees and stateless persons

15. While taking note of the Law on the Legal Status of Foreign Nationals, according to which people of foreign origin residing in Mongolia enjoy the same rights as Mongolian citizens, the Committee is concerned that asylum seekers, refugees and stateless persons, in particular those who are not registered, may have difficulties accessing State-provided services, such as health care, social security and education, particularly given the absence of national legislation on refugees (arts. 2 and 5).

16. **The Committee recommends that the State party take effective measures to fully guarantee the rights of asylum seekers, refugees and stateless persons to access health care, education and employment services, without discrimination. The Committee encourages the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.**

Migrant workers

17. The Committee is concerned about the substandard working and living conditions of migrant workers and about the lack of effective monitoring and inspection mechanisms to ensure that they enjoy the same working conditions as Mongolian workers (arts. 2 and 5).

18. **The Committee recommends that the State party increase its efforts to enforce its legislation to prohibit forced or compulsory labour and provide protection for migrant workers, notably by taking effective measures to fully guarantee their rights to access health care, education and employment services, without discrimination. It also recommends that the State party establish effective monitoring and inspection mechanisms to combat substandard working and living conditions for migrant workers to ensure that they enjoy the same working conditions as Mongolians and that they meet the international standards set forth in the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Domestic Workers Convention, 2011 (No. 189) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) of the International Labour Organization.**

Ethnic minorities and indigenous peoples

19. The Committee is concerned about the low number of Kazakhs, Tuvas and Tsaatans (Dukhas) who have completed primary, secondary and higher education compared with the national average. While noting the State party's efforts to promote bilingual education, the Committee is concerned that members of ethnic minorities and indigenous peoples face obstacles in accessing such education, in particular those living in the Bayan-Ulgii and Khuvsgul Provinces, as well as the Nalaikh district of Ulaanbaatar. It is also concerned about the absence of education in native languages for ethnic minorities and indigenous peoples, which results in the loss of language for these groups. The Committee is further concerned about the poor quality of education in the official language of the State party that is provided to ethnic minorities and indigenous peoples, which prevents them from accessing high-ranking positions in the administration and passing the entrance examinations for universities. It also hinders their participation in decision-making processes (art. 5).

20. The Committee recommends that the State party take special measures and allocate adequate budgets to enhance access to education and to improve the quality of education in the official language of the State party and in the native languages of ethnic groups and indigenous peoples. The Committee also recommends that the State party take measures to protect the seven endangered native languages. The Committee welcomes the establishment of quotas and scholarships to enable Tsaatan (Dhuka) students to enrol at university and recommends that the State party explore the possibility of extending such measures to other minority groups.

21. The Committee notes with concern the high unemployment rates of the Kazakhs, Tsaatans (Dukhas) and Tuvas compared with the national average. While taking note that the Law on Civil Service contains provisions prohibiting discrimination on the basis of ethnicity, the Committee is concerned that ethnic minorities continue to face discrimination in accessing employment, including in public service in Bayan-Ulgii Province (art. 5).

22. The Committee recommends that the State party take all necessary steps to eliminate discrimination based on ethnicity in the area of employment and public service, and ensure equal enjoyment of the right to work and have access to public service.

Situation of the Tsaatan (Dukha) people

23. The Committee is concerned that the restrictions on fishing and hunting in the Tengis Shishged protected area may negatively affect and endanger the traditional livelihoods and the cultural rights of the Tsaatan people. The Committee is also concerned at reports about:

(a) Restrictions related to access to grazing pasturelands traditionally used for reindeer herding;

(b) The strict application of anti-poaching laws affecting the livelihoods of Tsaatans, with allegedly prison sentences and fines being imposed;

(c) Difficulties for Tsaatans to visit their relatives in the region of Tyva in the Russian Federation and, in general, to cross the border, including alleged arrests and detentions;

(d) Obstacles faced by the Tsaatans, in particular, the elderly, sick and persons with disabilities, in accessing medical facilities (art. 5).

24. In line with general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:

(a) **Ensure that the Tsaatans are fully and effectively consulted with a view to obtaining their free, prior and informed consent in relation to all decisions affecting their rights and lands;**

(b) **Set minimal hunting and fishing quotas in consultation with the Tsaatans to enable them to continuously enjoy their cultural rights and practices;**

(c) **Ensure the rights of Tsaatans to access grazing pasturelands traditionally used for reindeer herding and to include the Tsaatans in the management of the Tengis Shishged protected area;**

(d) **Ensure the right of Tsaatans to maintain and develop contacts, relations and cooperation with members of their communities, as well as other peoples living over the border;**

(e) **Explore the possibility, in consultation with the Tsaatans, of providing health-care support through mobile health clinics.**

Mining

25. The Committee is concerned about reports that mining licences and exploration permits continue to be issued without any consultation with the affected ethnic minorities, in particular those practising reindeer herding, thus negatively affecting their traditional forms of livelihoods and cultural practices. The Committee is also concerned about the absence of any consideration given to impact assessment plans aimed at ensuring that mining operations do not harm the cultural heritage of the affected ethnic groups (arts. 2 and 5).

26. **The Committee recommends that the State party amend the Minerals Law, the Law on Licensing and the General Administrative Law to ensure that the rights of ethnic minorities, in particular those practising reindeer herding, to meaningful consultation, prior to the issuance of mining licences or exploration permits on lands that they traditionally used or occupied, are guaranteed.**

Access to remedies

27. While taking note of the absence of formal complaints by victims of racial discrimination, the Committee reminds the State party that this may be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social disapproval or reprisals, or an unwillingness on the part of the authorities to initiate proceedings (art. 6).

28. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party undertake public education campaigns on the rights under the Convention and on how to file complaints of racial discrimination and labour violations, in particular among ethnic minorities, indigenous peoples, migrants and refugees, and continue efforts to ensure access to judicial remedies. In that regard, the Committee recommends that the State party design a specific training module within the National Programme on Improving Public Legal Education.**

D. Other recommendations

Ratification of other treaties

29. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization.**

Amendment to article 8 of the Convention

30. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting**

of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

31. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

Follow-up to the Durban Declaration and Programme of Action

32. In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. In light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

34. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

35. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including local municipalities and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

Common core document

36. The Committee encourages the State party to update its common core document, which dates to 27 February 2015, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

37. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 20 and 24 (b) and 24 (c) above.

Paragraphs of particular importance

38. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 8, 12 and 14 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

39. The Committee recommends that the State party submit its twenty-fifth and twenty-sixth periodic reports, as a single document, by 5 September 2022, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
