



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
7 November 2008

Original: English

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## Committee on the Elimination of Discrimination against Women

Forty-second session

20 October-7 November 2008

### Concluding observations of the Committee on the Elimination of Discrimination against Women

#### Mongolia

1. The Committee considered the combined fifth, sixth and seventh periodic report of Mongolia (CEDAW/C/MNG/7) at its 858th and 859th meetings, on 24 October 2008 (see CEDAW/C/SR.858 and 859). The Committee's list of issues and questions is contained in CEDAW/C/MNG/Q/7 and the responses of the Government of Mongolia are contained in CEDAW/C/MNG/Q/7/Add.1.

#### Introduction

2. The Committee commends the State party for the submission of its combined fifth, sixth and seventh periodic report, which makes references to the Committee's previous concluding comments. However, the Committee regrets the delay in the submission of the report and the report did not follow the guidelines of the Committee (HRI/GEN/2/Rev.1/Add.2) and was submitted overdue. The Committee acknowledges the State party's written replies to the list of issues and questions raised by the pre-session working group, but regrets the absence of clear and precise responses to several issues in the replies.

3. The Committee further commends the State party for its delegation headed by the State Secretary of the Ministry of Social Welfare and Labour, but regrets that the delegation did not include representatives of a number of different governmental departments with expertise in areas covered by the Convention. The Committee nevertheless expresses its appreciation for the frank and constructive dialogue held between the delegation and the members of the Committee, which provided clear insights into the situation of women in Mongolia and on the implementation of the Convention.



### **Positive aspects**

4. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention, in March 2002.

5. The Committee notes with appreciation the ratification of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in June 2003, and on the involvement of children in armed conflict, in October 2004, which provides further protection to the girl child.

6. The Committee welcomes the adoption of legal, administrative and other measures by the State party to eliminate discrimination against women, including:

(a) The National Programme on Fighting against Domestic Violence, in 2007;

(b) The Law on Fighting against Domestic Violence, in 2005;

(c) The National Plan of Action on Commercial Sexual Exploitation and Trafficking of Children and Women, in 2005;

(d) The National Programme for Gender Equality, in 2002;

(e) The National Council on Gender Equality, in 2001.

### **Principal areas of concern and recommendations**

**7. The Committee recalls the State party's obligation systematically and continuously to implement all the provisions of the Convention, and views the concerns and recommendations identified in the present concluding observations as requiring the State party's priority attention between now and the submission of its next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding observations to all relevant ministries, to the Parliament and to the judiciary, so as to ensure their full implementation.**

### **Parliament**

**8. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and it invites the State party to encourage its national Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.**

### **Previous concluding observations**

9. The Committee is concerned that the State party has not taken adequate steps to implement the recommendations in regard to many of the concerns raised in its

previous concluding comments adopted in 2001.<sup>1</sup> In particular, the Committee finds that its concerns reflected in paragraphs 252, 256, 258 and 264 of the report, have not been addressed adequately.

**10. The Committee reiterates these concerns and recommendations and urges the State party to proceed without delay with their implementation. In this connection, while the Committee notes the change in the administration of the State party in 2005, it underlines that the present Government is fully responsible for fulfilling obligations under the Convention.**

#### **Definition of equality**

11. While noting the incorporation in a number of laws provisions prohibiting discrimination on the basis of sex, the Committee regrets that the State party has not yet adopted the draft law on gender equality.

**12. The Committee encourages the speedy adoption of the draft law on gender equality that includes a definition of direct and indirect discrimination in line with article 1 of the Convention, and which applies to both public and private employers, and further provides a basis for applying temporary special measures according to article 4, paragraph 1, of the Convention and general recommendation 25.**

#### **Data**

13. While acknowledging the plans by the State party to formulate gender-disaggregated indicators, the Committee notes that the report submitted contains an insufficient amount of sex-disaggregated data, and that the lack of such data makes it difficult to assess progress and trends over time in terms of the actual situation of women and in their enjoyment of their human rights in regard to all areas covered by the Convention.

**14. The Committee calls upon the State party to enhance its collection of data in all areas covered by the Convention, disaggregated by sex as well as by age and by urban and rural areas as applicable, so as to assess the actual situation of women and their enjoyment of their human rights, and track trends over time. It also calls upon the State party to monitor, through the application of measurable indicators, the impact of laws, policies and action plans and to evaluate progress achieved towards the realization of women's de facto equality. It encourages the State party to apply those data and indicators in the formulation of laws, policies and programmes for the effective implementation of the Convention. The Committee also requests the State party to include in its next report such statistical data and analysis.**

#### **Visibility of the Convention**

15. While welcoming the fact that the Convention is integrated into domestic legislation, the Committee is concerned that there is still a lack of adequate knowledge of the Convention and its Optional Protocol among the judiciary, law enforcement officers and women themselves.

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<sup>1</sup> See *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 38 (A/56/38)*, paras. 234-278.

**16. The Committee recommends that the State party ensure that mandatory training for judges and lawyers include the application of the Convention at the domestic level. It also recommends the delivery of awareness-raising campaigns addressed to women to allow them to avail themselves of the legal remedies available to assist them. It invites the State party to provide, in its next report, information about complaints filed in courts based on the Convention, as well as any court decisions that referred to the Convention.**

#### **Gender equality in legal reform**

17. While noting that article 16.11 of the Constitution and a number of laws prohibit discrimination on the basis of sex, and that the State party is also currently undertaking a four-year legal reform, the Committee expresses concern that the State party has not undertaken a comprehensive review of laws to determine their conformity with the Convention and that some discriminatory provisions against women may continue to prevail.

**18. The Committee urges the State party to review all existing laws in order to assess their compatibility with the Convention and amend any remaining discriminatory provisions so that they are fully compatible with the Convention and the Committee's general recommendations.**

#### **National human rights institution**

19. The Committee welcomes the establishment of the National Human Rights Commission of Mongolia in 2000. The Committee is, however, concerned that, according to the State party, the majority of complaints submitted to the Commission were from residents living in Ulaanbaatar, and that there were almost no complaints based on sex discrimination in the period 2005-2007, despite, as noted by the State party, the prevalence of violence against women in the country. The Committee also regrets the lack of information provided by the State party's delegation regarding cases initiated by the Commission concerning the rights of women, the availability of gender-specific expertise and the representation of women within the Commission.

**20. The Committee requests that the State party provide additional information on the National Human Rights Commission of Mongolia in its next report, including the role of the Commission in assisting women to seek and receive legal redress for violations of their rights. The Committee further recommends that the State party increase its efforts to raise awareness throughout the State party, in particular in relation to rural women, of the Commission's competence to receive and consider complaints from women regarding violations of their rights and freedoms.**

#### **National machinery for the advancement of women**

21. The Committee, while welcoming the establishment of the National Committee on Gender Equality, in 2005, regrets that it does not have sufficient strength, visibility or human and financial resources to promote effectively the advancement of women and gender equality, and lacks the mandate to coordinate other line ministries' work with regard to the promotion of gender equality and gender mainstreaming in all public policies and programmes.

22. **The Committee urges the State party to put in place an institutional mechanism, either by strengthening and restructuring the National Committee on Gender Equality, or by establishing a separate machinery that recognizes the specificity of discrimination against women and is exclusively responsible for the promotion of formal and substantive equality and the monitoring of the practical realization of the principle of substantive equality of women and men. It calls upon the State party to endow at the highest political level such a mechanism with the necessary authority and human and financial resources to promote effectively the implementation of the Convention and enjoyment by women of their human rights across all fields by coordinating and monitoring gender mainstreaming in all areas. It encourages the State party to establish gender focal points in different ministries, provide them with adequate gender training and link them with the national machinery.**

#### **Negative cultural practices and stereotypical attitudes**

23. The Committee deeply regrets that insufficient measures have been taken by the State party to address the traditional discriminatory practices and strong stereotypical attitudes about the roles and responsibilities of women and men in family and society which persist in Mongolia, and that such stereotypes continue to be reflected in legislation, policies and programmes. These stereotypes constitute a significant impediment to the implementation of the Convention and are the root cause of the disadvantaged position of women in all areas, including in political and public life and in the labour market, hence negatively affecting women's enjoyment of their rights and impeding the full implementation of the Convention. The Committee also expresses concern that women bear a disproportionate burden of family responsibility in the context of the State policy on population growth which encourages larger families.

24. **The Committee urges the State party to intensify its efforts to eradicate traditional stereotypes regarding the roles and responsibilities of women and men in the family and society, including comprehensive awareness-raising measures to foster a better understanding of equality between women and men at all levels of society. The Committee also recommends that the State party introduce human rights education, including gender education on the basis of the Convention, into school curricula, and to encourage the media to promote cultural changes with regard to the roles and responsibilities attributed to women and men, as required by article 5 of the Convention. The Committee also recommends that awareness-raising measures be strengthened to promote and implement the equal sharing of domestic and family responsibilities, including the idea of joint parental responsibility between women and men.**

#### **Violence against women**

25. While welcoming the efforts taken by the State party to combat and prevent domestic violence and violence against women, including the enactment of the Law on Fighting against Domestic Violence, in 2005, and the adoption of the National Programme on Fighting against Domestic Violence, in 2007, the Committee remains deeply concerned that the incidence of domestic violence remains high. The Committee is also concerned that domestic violence continues to be seen as private matters, including among the law enforcement personnel, and the rate of prosecution under the Law on Fighting against Domestic Violence has been very low (20 cases

prosecuted since its enactment). It is also concerned about the implementation of certain aspects of the Law on Fighting against Domestic Violence, including those relating to the provision of shelters and the availability of medical and rehabilitation services by qualified professionals. The Committee also regrets that the State party has not yet criminalized marital rape.

**26. The Committee urges the State party to place high priority on the implementation of the Law on Fighting against Domestic Violence and to make it widely known to public officials and society at large, in the context of the National Programme on Fighting against Domestic Violence. The Committee calls upon the State party to ensure that all women who are victims of domestic violence, including rural women, have access to immediate means of redress and protection, including protection orders, access to safe shelters and medical and rehabilitation assistance in all parts of the country. It urges the State party to ensure that public officials, especially law enforcement personnel, the judiciary, health-care providers and social workers, are fully familiar with applicable legal provisions, and are sensitized to all forms of violence against women and adequately respond to them. It urges the State party to conduct research on the prevalence, causes and consequences of domestic violence to provide the basis for comprehensive and targeted intervention and to include the results of such research in its next periodic report. The Committee recommends that the State party enhance its action on violence against women beyond domestic violence to all forms of violence against women, in the light of the Committee's general recommendation 19, and in this connection, reiterates its previous recommendation to the State party in respect of the criminalization of marital rape.**

### **Trafficking**

27. Despite the various measures taken by the State party to address trafficking in women and girls, including the adoption of the National Plan of Action on Commercial Sexual Exploitation and Trafficking of Children and Women, in 2005, the Committee remains concerned about the increasing incidence of trafficking and exploitation of women and girls and the low rate of prosecution. The Committee notes, with particular concern, the information provided by the State party that most cases of trafficking in persons are dismissed. The Committee is also concerned that there is currently no mechanism to ensure rehabilitation and social reintegration for victims of trafficking and that no witness protection programme exists for women who wish to seek legal redress.

**28. The Committee recommends that the State party ensure the full implementation of the National Plan of Action on Commercial Sexual Exploitation and Trafficking of Children and Women, and ensure that, as part of a comprehensive strategy to combat the trafficking of women, it increases international, regional and bilateral cooperation, and ensure the prosecution and punishment of offenders, including by providing for witness protection and legal aid, as well as ensuring that adequate mechanisms are in place for the rehabilitation and social integration of women and girls who have been victims of trafficking. The Committee also urges the State party to enact specific and comprehensive national legislation on trafficking entrenching a national oversight mechanism, and to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing**

**the United Nations Convention against Transnational Organized Crime, to which it acceded in June 2008.**

#### **Participation in political and public life**

29. The Committee is concerned at the low and declining rate of representation of women in decision-making positions in all spheres, particularly in Parliament (3.9 per cent, as compared to 6.6 per cent in 2006 and 11.8 per cent in 2000) and at the top-level decision-making positions (5.2 per cent in 2006 and 9.4 per cent in 2002) as well as in the public and private sectors. The Committee is also concerned that the legal provision that introduced a 30 per cent quota on women candidates for nomination by parties and coalitions, pursuant to the revisions made by the Parliament Election Law in 2005, was eliminated by Parliament in December 2007. The Committee also notes with concern that the requirement to contribute 20 million togrogs (MNT) to gain party nomination for candidature is a particular obstacle for women candidates in their participation in national elections.

**30. The Committee urges the State party to introduce in its legislation temporary special measures, in accordance with article 4, paragraph 1, of the Convention and general recommendations 23 and 25, to increase the representation of women at all levels and spheres of politics, especially in decision-making positions. In this regard and in order to accelerate the representation of women, the Committee strongly calls upon the State party to re-establish legal quotas for women for future elections to the Parliament. It further urges the State party to undertake awareness-raising campaigns about the importance of women's participation in decision-making for society as a whole, including in the public and private sectors. The Committee requests the State party to provide in its next report detailed information and statistical data on women's representation, particularly in decision-making positions, in various areas of public life, including in law enforcement, the judiciary and the diplomatic service.**

#### **Employment**

31. The Committee expresses concern at the high rate of unemployment among women and persistent patterns of direct and indirect discriminatory practices against women in public and private employment with respect to recruitment, equal pay for work of equal value and maternity protection, as well as sexual harassment. Furthermore, while commending the State party for the adoption of the State Policy on Informal Employment, in 2006, the Committee is concerned about its implementation and its impact on the large number of women in the informal sector who have no social protection. The Committee is also concerned at women's concentration in certain employment sectors that are economically static and receive less pay than male-dominated sectors. The Committee is also concerned that men hold a significantly higher proportion of managerial positions, even in the sectors where women dominate and have higher educational levels. The Committee also notes with concern the discriminatory provision in the Labour Law, according to which women are prohibited from freely choosing their employment, pursuant to an outdated list of hazardous occupations from which women are excluded.

**32. The Committee calls upon the State party to introduce without delay specific measures, including an enforcement mechanism, to ensure equal rights for women in the area of employment and work and their full and equal**

participation in the labour market. This should include a legal guarantee of equal pay for equal work and for work of equal value, better enforcement of laws to protect women from discrimination on the ground of maternity, as well as the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention, and general recommendation 25. The Committee also urges the State party to ensure that all employment-generation programmes are gender sensitive and that women fully benefit from all planned programmes to support entrepreneurship, including through vocational training, favourable credit conditions and income-generation opportunities. The Committee also calls upon the State party to enact legislation prohibiting sexual harassment.

### **Health**

33. While noting the efforts made by the State party to improve women's health, particularly in the context of Mongolia's efforts to meet the Millennium Development Goals, including the Third National Reproductive Health Programme for Mongolia for 2007-2011, the Committee remains concerned about maternal and under-five child mortality rates in Mongolia. The Committee also expresses concern about the limited availability of health-care services, including antenatal and obstetric care, especially in rural areas, and in particular, the information provided by the State party that rural women and women in low-income brackets are most likely to die from birth and pregnancy-related complications.

34. **The Committee urges the State party to continue its efforts to improve the country's health infrastructure and to ensure sufficient budgetary allocations for accessible health services. It calls upon the State party to integrate a gender perspective in all health sector reforms, while also ensuring that women's sexual and reproductive health needs are adequately addressed. In particular, the Committee recommends that the State party undertake appropriate measures to improve women's access to health care and health-related services and information, including access for rural women and women who are in low-income brackets. It also calls upon the State party to improve the availability of sexual and reproductive health services, including family planning information and services, as well as access to antenatal, post-natal and obstetric services to reduce maternal mortality and to achieve the Millennium Development Goal to reduce maternal mortality.**

### **Rural women**

35. In view of the fact that rural women constitute approximately 60 per cent of the female population in Mongolia, the Committee is concerned about their precarious situation and their particular difficulties in accessing adequate health services, clean water and sanitation services, and in participating in decision-making, seriously impairing their enjoyment of economic, social and cultural rights. The Committee further expresses concern about the specific impact of environmental degradation on the situation of rural women.

36. **The Committee urges the State party to pay special attention to the needs of rural women by implementing an integrated rural development policy, ensuring that rural women participate fully in decision-making processes, in particular, on environmental issues, and have access to health, clean water and**



**sanitation services, without discrimination. The Committee requests the State party to include in its next report sex-disaggregated data and information on the de facto position of rural women.**

#### **Poverty**

37. While noting the adoption of the Comprehensive National Development Strategy of Mongolia in 2008, which incorporates a gender perspective, the Committee is concerned at the high incidence of poverty among women, in particular rural women as well as households headed by women, which are on the increase. In this connection, the Committee notes with concern that the poverty reduction strategy of the State party has not been implemented with sufficient attention to the rights of women, and thus has contributed to the disproportionately heavy burden of transition being carried by the women. The Committee also notes that women were considerably disadvantaged by the process of privatization, as most lands and livestock were registered under the male heads of households, leaving women without legal title or control over their assets.

**38. The Committee recommends that the State party take measures through its gender mainstreaming efforts and poverty reduction strategy to address the specific vulnerability of women in poverty, including efforts to ensure women's representation in the participatory approaches taken in the management of poverty reduction programmes. It encourages the State party to assess and monitor the impact of economic transition and privatization on the implementation of its obligations under the Convention, and to take corrective measures as necessary. The Committee also urges the State party to undertake sensitization programmes to ensure that women are fully aware of their rights and entitlements, including to social security benefits.**

#### **Preparation of next report**

39. **The Committee requests the State party to follow the guidelines of the Committee (HRI/GEN/2/Rev.1/Add.2) in the preparation of its next report, and to ensure the wide participation of all ministries and public bodies as well as to consult with non-governmental organizations during that phase. It encourages the State party to involve Parliament in a discussion of the report before its submission to the Committee.**

#### **Beijing Declaration and Platform for Action**

40. **The Committee urges the State party to utilize fully in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

#### **Millennium Development Goals**

41. **The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. The Committee calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals, and requests the State party to include information thereon in its next periodic report.**

**Dissemination**

42. The Committee requests the wide dissemination in the State party of the present concluding observations in order to make the people of Mongolia, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the Government to continue to disseminate widely, in particular to women's and human rights organizations, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the general recommendations of the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action and the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

**Ratification of other treaties**

43. The Committee notes that States' adherence to the nine major international human rights instruments<sup>2</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Mongolia to consider ratifying the treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance (signed by the State party in February 2007).

**Follow-up to concluding observations**

44. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 11 and 21 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate, for implementation of the above recommendations.

**Date of next report**

45. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report to be submitted under article 18 of the Convention. The Committee invites the State party to submit its eighth periodic report, which is due in September 2010, and its ninth periodic report, which is due in September 2014, in a combined report in 2014.

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<sup>2</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities.