



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-ninth session
31 July- 18 August 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding Observations of the Committee on the
Elimination of Racial Discrimination**

MONGOLIA

1. The Committee considered the sixteenth to eighteenth periodic reports of Mongolia, submitted in one document (CERD/C/476/Add.6), at its 1770th and 1771st meetings (CERD/C/SR.1770 and 1771), held on 8 and 9 August 2006. At its 1783rd meeting (CERD/C/SR.1783), held on 17 August 2006, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and the additional oral information provided by the delegation during the consideration of the report, in particular, the detailed response to the list of issues. The Committee is encouraged by the attendance of a high-ranking delegation and expresses appreciation for the opportunity to renew its dialogue with the State party.

3. The Committee notes the efforts made by the State party to comply with the reporting guidelines of the Committee. It regrets, however, the general brevity of the report and the lack of sufficient information on the practical application of the Convention.

B. Positive aspects

4. The Committee welcomes the entry into force, in 1999, of the Labour Law, including provisions which prohibit discrimination in labour relations on the basis of nationality, race, sex, social origin or status, wealth, religion or ideology.

5. The Committee welcomes the ratification by the State party of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography, in 2000; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2002; and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2002.

6. The Committee notes with satisfaction the establishment, in 2001, of the National Commission for Human Rights of Mongolia, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

7. The Committee commends the enactment, in 2001, of the Law on Advertisement, which contains a provision prohibiting advertisements in the media unfavourably comparing religions, professions, sexes, ages, social status, languages and ethnic groups, or promoting racial discrimination and discord.

8. The Committee notes with satisfaction that, in 2002, the Parliament passed the new amended Criminal Code which provides for three types of offences of racial discrimination and acts of genocide.

9. The Committee welcomes the enactment, in 2002, of the new Civil Code which stipulates that non-citizens have the same rights as citizens in civil legal matters.

10. The Committee welcomes the adoption, in 2003, of the National Human Rights Action Plan.

11. The Committee notes with satisfaction the adoption, in 2005, of the Tuva Language Study Programme aimed at supporting the Tsaatan minority in their efforts to preserve their cultural heritage, following the publication of a study on the “State of Rights and Freedoms of the Tsaatan” by the National Human Rights Commission of Mongolia.

C. Concerns and recommendations

12. While noting the explanation of the State party that it has not adopted legislation defining racial discrimination because the Convention is self-executing in Mongolia’s domestic legal order, the Committee remains concerned that no clear definition of racial discrimination exists in the legislation of the State party (art. 1).

The Committee recommends to the State party that it adopt a definition of racial discrimination that includes all the elements contained in article 1 of the Convention.

13. While acknowledging the State party’s security concerns, the Committee remains concerned that articles 24 and 25 of the Legal Status of Foreign Citizens (1993) prescribe numerical thresholds for the entry and residence of non-citizens according to nationality (arts. 2 and 5).

In light of its general recommendation 30 on non-citizens, the Committee recommends that the State party consider the possibility of amending the

relevant provisions of the Law on the Legal Status of Foreign Citizens (1993) so as to ensure that its immigration policy does not have the effect of discriminating on the basis of nationality.

14. While the Committee acknowledges the recent progress made by the State party in the adoption of new legislation, the Committee remains concerned about the absence of legislation and regulations on racial discrimination in the civil and administrative fields (art. 2 (1) (d)).

The Committee reiterates its previous recommendation that the State party should give serious consideration to enacting comprehensive legislation to prevent and prohibit racial discrimination, including the provision of effective remedies against racial discrimination in civil and administrative proceedings.

15. While noting the statistical information provided by the State party on the representation of the different ethnic communities in Parliament, national and local government, the judiciary and the police, the Committee remains concerned about the low levels of representation of minority groups in the police force (arts. 2 (2), 5 (c) and 7).

The Committee recommends that the State party consider adopting measures to ensure that ethnic minorities are duly represented in State institutions and the public administration, including special measures aimed at achieving adequate representation of all ethnic groups in the police force. Furthermore, in line with the Committee's general recommendation 13, the Committee urges the State party to provide specific training to law enforcement officers to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to race, colour, descent, or national or ethnic origin.

16. The Committee notes the absence of provisions in domestic law declaring illegal and prohibiting organizations which promote and incite racial discrimination (art. 4 (b)).

The Committee draws the attention of the State party to its general recommendation 15 on organized violence based on ethnic origin and invites the State party to adopt legislation to fully implement the provisions of article 4 (b) of the Convention.

17. Following the State party's statement that the rights of non-citizens are granted on the basis of reciprocity, the Committee is concerned that the rights and freedoms guaranteed under article 5 of the Convention may not be fully available to non-citizens in Mongolia to the extent recognized under international law (art. 5).

In light of general recommendation 30 on non-citizens, the Committee urges the State party to take all necessary measures to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights and to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law. The Committee wishes to receive information in this regard in the next periodic report.

18. While noting that the State party has been cooperating with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee is concerned that the State party has yet to enact legislation on asylum matters and to introduce an asylum-determination procedure. It also regrets the lack of information provided by the State party on refugees and asylum-seekers residing in Mongolia, including information on unaccompanied asylum-seeking minors, given that under article 19 of the Law on the Legal Status of Foreign Citizens (1993), children without accompanying guardians are automatically denied entry into Mongolia upon arrival (art. 5).

The Committee requests the State party to provide in the next periodic report updated information relating to the treatment of refugees and asylum-seekers, including information on rules and procedures governing the treatment of unaccompanied asylum-seeking minors. The Committee recommends that the State party take effective measures to guarantee the rights of asylum-seekers to information, interpretation, legal assistance and judicial remedies, and invites the State party to consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

19. The Committee, while commending the serious efforts of the State party to reduce poverty, including the enactment, in 2003, of the Law on Management and Finance of the Regions Development, remains concerned about the significant disparities in the enjoyment of economic, social and cultural rights that persist in the State party, particularly affecting ethnic groups in rural and remote areas (art. 5 (e)).

The Committee recalls that the low level of economic, social and cultural development of certain ethnic groups as compared with the rest of the population might be an indication of de facto discrimination, even if it is not the direct result of a deliberate effort by the Government to prevent part of its population from enjoying its rights. It therefore recommends to the State party that it conduct studies with a view to assessing and evaluating the level of enjoyment of economic, social and cultural rights by different ethnic groups in the State party.

20. While taking note of the explanations provided by the State party that in practice, non-citizens are not prohibited from changing employment provided that they inform the relevant agency, the Committee is concerned about article 11.3 of the Law on the Legal Status of Foreign Citizens (1993) which prohibits non-citizens from entering into a new labour contract prior to the expiry of the contract with which he/she entered Mongolia. Furthermore, the Committee seeks clarification of the law and practice permitting employment of non-citizens in the public service in light of its general comment 30 on non-citizens (art. 5 (e) (i)).

The Committee recommends that the State party amend the relevant articles of the Law on the Legal Status of Foreign Citizens (1993) to ensure that non-citizens are able to freely exercise their right to seek alternative employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. The Committee also encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

21. The Committee is concerned about the lack of practical measures to support minority languages and to facilitate access to education by children belonging to ethnic minority groups. Furthermore, the Committee, while appreciating the State party's efforts to provide Kazakh children with education in their native language, is also concerned about the lack of measures to ensure that children whose mother tongue is a minority language, including Kazakh children, are provided with adequate opportunities to learn Mongolian as a second language (art. 5 (e) (v) and (vi)).

The Committee recommends to the State party that it facilitate the participation of ethnic minorities in the elaboration of cultural and educational policies that will enable persons belonging to minorities to learn or to have instruction in their mother tongue, as well as in the official language. The Committee requests that the State party include in its next periodic report detailed information on this issue, and provide the text of the Official Language Law and the Law on Culture.

22. The Committee notes the statement by the State party that there have been no reports of racial discrimination in Mongolia (art. 6).

The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination. The Committee requests that the State party include in its next periodic report available information on complaints lodged, including those submitted to the National Human Rights Commission, and prosecutions launched, as well as penalties imposed, in cases of offences which relate to racial discrimination.

23. The Committee recommends that the State party ratify the amendment to article 8, paragraph 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. In this connection, the Committee cites General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was made by the Assembly in its resolution 58/160 of 22 December 2003.

24. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges it to consider doing so.

25. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2-7 of the Convention, and that it include in its next periodic report information on further action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

26. The Committee recommends that the State party consult and consider expanding its dialogue with a wide range of organizations of civil society working in the area of combating racial discrimination in connection with the preparation of the next periodic report.

27. The Committee recommends that the State party's reports be made available to the public from the time they are submitted and that the observations and recommendation of the Committee on these reports be similarly publicized.

28. The State party should within one year provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 19 and 20 above, pursuant to paragraph 1 of rule 65 of the rules of procedure.

29. The Committee recommends that the State party submit its nineteenth periodic report jointly with its twentieth and twenty-first periodic reports in a single report by 5 September 2010, and that it address all points raised in the present concluding observations.

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