



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Fifty-fifth session

#### Summary record of the 26th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 3 June 2015, at 3 p.m.

*Chairperson:* Mr. Sadi

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### Consideration of reports (*continued*)

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*Fourth periodic report of Mongolia*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports** *(continued)*

**(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Fourth periodic report of Mongolia* (E/C.12/MGN/4; E/C.12/MGN/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Mongolia took places at the Committee table.*

2. **Mr. Tuvaan** (Mongolia) said that the remarkable economic growth that his country had experienced as a result of the expansion of the mining industry had failed to counter inflation and unemployment or to achieve any meaningful reduction in poverty, which affected nearly 30 per cent of the population. Mining accounted for 80 per cent of the country's exports and, while the wholesale and retail sectors were growing, the manufacturing sector made up less than 4 per cent of gross domestic product (GDP). The economy had slowed in recent years and was currently in recession. The transition to a market economy had triggered a rural exodus — over 65 per cent of the population now lived in urban areas — and the Government was devising policies to counter that trend, promote employment and improve living conditions and sociocultural services in rural areas.

3. Regarding labour rights, he said that amendments had been made to the Law on Occupational Safety and Health, resulting in the establishment of special committees, the allocation of increased financial and human resources to address the issue and the signing of related agreements between employer and employee organizations. Amendments had also been made to the Law on Employment Promotion regarding small loans to micro-businesses and cooperatives, investment diversification and access to employment services. The parliament was considering the possibility of making amendments to the Labour Law with a view to regulating labour relations in the absence of a contract. Notwithstanding the current economic crisis, the Government was pursuing its efforts to promote employment, support vulnerable and low-income groups and improve the living conditions of the population.

4. Significant reforms had been carried out in the area of social protection and welfare; for example, the Law on Social Protection had been amended to ensure that no one would remain uninsured and that everyone would receive the correct pension amount, regardless of their initial choice of salary scheme. Furthermore, a law had been adopted in 2012 on the recalculation of pension rights for persons who had been unable to work for a given period for reasons outside of their control. As a result, three quarters of the people who had applied to have their pension recalculated had received a pension increase and over 12,000 social welfare recipients had been found eligible for a Social Insurance Fund pension. Thanks to the information in the Consolidated Household Database, social protection services could now be tailored to serve specific needs and groups. Low-income families were entitled to receive food vouchers together with a range of services funded mostly by the local authorities. In addition, every child under 18 received a monthly allowance.

5. A foundation had been set up to design a family-oriented development policy, and the parliament was discussing a new family law to address questions such as family development, domestic violence, childcare, parental obligations, guardianship, inheritance and adoption. Since the consideration of its previous report, Mongolia had ratified all three optional protocols to the Convention on the Rights of the Child. A bill to amend the Law on Protecting the Rights of the Child and a bill on child protection were both before the parliament.

6. Regarding health, he said that Mongolia had achieved the targets in the Millennium Development Goals that related to HIV/AIDS and most of the targets relating to tuberculosis, but was falling short of the goal of improving screening for tuberculosis. In recent years, particular focus had been placed on increasing access to health-care services in rural areas through the delivery of nutritional advice at district health-care centres, the addition of 450 new beds at the National Mental Health Centre and the establishment of diagnostic centres with a broad range of equipment in 11 provinces.

7. According to the World Economic Forum's "Global Competitiveness report 2014–2015", Mongolia ranked 126th out of 144 countries in terms of intellectual property protection. However, a number of laws had been adopted to lay the ground for the creation of a legal framework in that domain. Currently, most intellectual property right holders in the country were scientists, academics and artists; industrial copyright and technology transfers were rare. There was a lack of information about the issue and the information that was available tended to be theoretical. Cooperation between universities, scientific organizations and industry was not robust. Yet, intellectual property protection was acknowledged as being a very important means of developing a knowledge-based economy. In that connection, the parliament had adopted the Law on Innovation, rules had been developed on establishing a start-up company in the science sector, a science, technology and innovation fair was held annually and a national forum on science, technology and innovation had been held in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO). Since the country had made the transition to a market economy, the culture sector had grown and begun to generate more income and more jobs.

8. **Ms. Shin** (Country Rapporteur) recalled that Mongolia had last been reviewed some 15 years prior, in the absence of a delegation. She commended the State party for its frank opening statement and for ratifying the Optional Protocol to the Covenant. She asked what training in those instruments was available, especially to judges and lawyers. Noting the various laws that had been enacted and the bills awaiting adoption, she said that there was every reason to doubt that they would be implemented and enforced in practice. While the Committee welcomed the action taken to appoint an official of the National Human Rights Commission in each province, there were concerns about the Commission's independence and funding and about the extent to which its recommendations were heeded. The government infrastructure for the protection of human rights should be strengthened and a comprehensive anti-discrimination law should be enacted.

9. Mongolia faced a number of serious problems that hindered the population's enjoyment of economic, social and cultural rights. Those problems included the adverse effects of climate change on the livelihoods of animal herders, the impact of the booming, yet unregulated, mining industry and overcrowding in the capital. Moreover, poverty persisted, there were growing disparities between the rich and the poor and between rural and urban areas and discrimination was pervasive, especially against groups such as persons with disabilities, women, migrants and members of the lesbian, gay, bisexual and transgender (LGBT) community. Data collection processes should be improved in order to obtain a clear picture of the situation and inform decisions on the amendment of laws and adoption of targeted policies. Monitoring, accountability and anti-corruption mechanisms should also be enhanced.

10. **Mr. Ribeiro Leão** asked how the Government ensured that a portion of the income from mining operations actually reached the population.

11. **Mr. De Schutter** asked how the poverty rate could still be high with such strong economic growth and what policies were in place or envisaged to tackle the issue. Suggesting that better regulation of the mining industry and improved linkages between large extraction operations and artisanal mining might go some way to addressing poverty,

he asked what obstacles the Government faced in that regard. He said that the application of the provisions of the Law on Minerals regarding consultations with local authorities did not appear to be mitigating the adverse effects of mining activities on the enjoyment of economic, social and cultural rights. Moreover, occupational health and safety standards and the right to freedom of association were not observed in the mining sector. He said that he wished to know whether the Bill on Environmental Impact Assessments had been enacted.

12. Noting that the equality clause in the Constitution did not include disability among prohibited grounds for discrimination, he asked whether the Government intended to address that omission. He also asked what plans were being considered to improve the protection of LGBT rights and move towards the recognition of same-sex couples.

13. **Ms. Bras Gomes** said that she wished to know whether a comprehensive impact assessment of the environmental and social risks associated with the growth of the mining sector had been undertaken. If so, it was difficult to understand why the Government had not taken corrective action to curb the adverse socioeconomic effects mentioned in the delegation's opening statement.

14. She said that Mongolia did not appear to have a cohesive legal framework covering all grounds for discrimination. Moreover, even where certain types of discrimination were proscribed, the law did not seem to be applied in a predictable manner. Did the Government intend to adopt comprehensive anti-discrimination legislation?

15. Ongoing reforms of the human rights protection system had been viewed as disappointing by civil society organizations, which lamented the lack of consultation and real progress on the ground. In that connection, she requested information on the status of the National Human Rights Commission and national human rights plan.

16. Turning to the report of the Working Group on the issue of human rights and transnational corporations and other business enterprise (A/HRC/23/32/Add.1), she asked whether it had been translated into Mongolian, what technical assistance Mongolia had sought and how the State viewed its role in addressing human rights abuses by third parties in its territory.

17. **Mr. Kedzia**, said that the list of grounds on which discrimination was prohibited was not consistent with the Covenant and he wondered whether or not it was considered to be an exhaustive list. He also said that, in accordance with the Vienna Convention on the Law of Treaties, the Constitution could not prevail over international instruments.

18. He said that he welcomed the establishment of an independent authority to combat corruption and that it would be useful to know more about its status, powers and responsibilities. He noted the use of witness protection services for whistle-blowers and asked whether the delegation could provide statistics on the proportion of corruption cases where those services were used. As for efforts to increase access to inclusive education, he asked whether any relevant training had been provided to teachers.

19. **Mr. Atangana** said that, pursuant to the Committee's general comment No. 3 on the nature of States parties' obligations, Covenant rights took precedence over domestic legislation. He asked whether the delegation could provide additional information on the obstacles to the application of the Covenant in court cases.

20. **Mr. Schrijver** said that he had noted the delegation's statement to the effect that the full integration and application of the Covenant was dependent on the joint efforts of State and non-State actors. The Committee had very little information about NGOs, civil society organizations and trade unions in Mongolia. He asked how the State party assessed the credentials of civil society organizations, how far those organizations were involved in public debate and policymaking and whether they had participated in the drafting of the

State party's report. Was human rights education part of the school curricula and did all public officials receive human rights training?

21. **Mr. Ribeiro Leão**, said that he wished to know what had been done to improve workplace health and safety and reduce the number of industrial accidents in Mongolia.

22. **Ms. Bras Gomes** said that herders and young people had been hardest hit by adverse socioeconomic conditions and were particularly vulnerable to unemployment. She would be interested to hear details about any policies to help those groups. She wished to know how the Government intended to safeguard the rights of workers, since a fast, cheap and accessible system of labour dispute resolution did not generally inspire mutual trust. She expressed disappointment that the State party had attributed the gender pay gap to the fact that women generally worked in low-paid professions, which simply perpetuated gender stereotypes. What measures was the Government taking to change social attitudes and promote gender equality? Lastly, she said that she wished to know what provision was made for people who were not covered by the social insurance system. Was there any discussion of the introduction of a social protection floor?

23. **Mr. Martynov** said that he wished to receive disaggregated data for the period 2010–2014 on the numbers of people with disabilities who were unemployed. Under the Labour Law, employers could circumvent their obligations to employ people with disabilities by paying a levy. He wondered whether the Government might consider that that provision essentially defeated the purpose of the employment quotas, since less than half of companies had met those obligations. He urged the State party to consider the possibility of assigning responsibility for monitoring and enforcing that requirement to the country's Labour Inspectorate.

24. The informal sector was fairly small and two thirds of all those in informal employment were in urban areas, with migration from rural areas likely to be a significant causal factor. He wished to know whether the Government had adopted any strategies to regularize the informal sector.

25. The State party's assertion that minimum wage requirements were generally observed appeared to be based on the only existing survey to have been conducted on the subject, a survey which dated from 2009. A more systematic approach to enforcement through the Labour Inspectorate was needed. He wondered whether the Government intended to boost the capacity of the Inspectorate. Comparative data on the minimum wage and unemployment benefits and how they could be squared with the cost of living would also be appreciated.

26. Updated statistics for the period 2010–2014 on the number of fatal industrial accidents that had occurred in Mongolia would be appreciated. He wished to know whether the State party had any plans to adopt the International Labour Organization (ILO) Labour Inspection Convention, 1947 (No. 81) and the ILO Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128). Lastly, he said that adjustments to align social security benefits and pensions with the consumer price index were not made systematically. Certain groups had no access to the social insurance or welfare systems, and he wondered whether the revamped universal social security system would rectify that situation.

27. **Mr. Kedzia** said that he would be interested in knowing what sanctions, if any, were levied on employers that did not comply with the employment quotas for persons with disabilities. The Committee on the Rights of Persons with Disabilities had recommended that financial penalties should be increased in such cases, and he wondered whether the Government had plans to do so.

28. It was his understanding that there were no sanctions for employers who breached the law on gender equality and non-discrimination in the workplace. What steps was the

State party taking to enforce that law? In view of the fact that the Labour Law was currently under review, he wondered whether discrimination on the grounds of sexual orientation and gender identity would also be taken into account in the legislation.

29. **Ms. Shin** said that it was her understanding that retirement ages in Mongolia differed for men and women. She wondered whether the Government might consider harmonizing them. Reports suggested that forced labour was being used in prisons and in the military. She asked the delegation to clarify whether it was true that conscripts were being forced to work unpaid overtime, while prison inmates were made to produce cashmere clothing for a minimum wage.

*The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.*

30. **Ms. Narantuya** (Mongolia) said that article 10, paragraph 3, of the Constitution provided that an international treaty ratified by Mongolia took precedence over the country's legislation in cases where the two were not consistent with each other. Moreover, the Ministry of Justice had introduced a bill, currently before parliament, under which all legislation would be required to reflect the human rights principles set out in international treaties. The bill stated that judges, prosecutors and defence counsel must undergo further training, provided by the State, on the content of international treaties. Treaties could also be invoked in court cases.

31. The National Commission for Human Rights was an independent body established based on the Paris Principles. An amendment to the law on its establishment was being discussed in parliament that very day. It was designed to ensure the Commission's full financial independence. As for the Independent Authority against Corruption, it had responsibility for preventing corruption, raising public awareness of the issue, checking the budgets of State bodies, monitoring the income of State officials and undertaking investigations. The Authority answered to the parliament. Its staff were required to meet certain standards and their salaries, disciplinary rules and code of ethics were all regulated by law. Upon appointment, the staff were sworn in before the national flag. The head and deputy head of the Authority, who were appointed for a period of six years, were required to have not less than 15 years' experience in government, to be lawyers, to be aged at least 45 and not to have held political office in the 5 years preceding their appointment.

32. The Constitution specifically prohibited discrimination and the draft Criminal Code defined discrimination based on ethnic origin, language, sex or race as a criminal offence. Sexual orientation was also mentioned. There was, however, no stand-alone law on discrimination. In the draft amendment to the Labour Code, article 6 provided that discrimination in labour relations on the grounds of disability, external appearance, social origin, social status, marriage, sexual orientation or infection with HIV was prohibited.

33. **Mr. Tuvaan** (Mongolia) said that there were 285,000 herders in Mongolia, with 51.6 million head of livestock in their care. They had the same rights as other citizens of Mongolia and could choose their place of residence. They could also move to whichever pastures they wished, according to the season. It was correct to say that there had been some friction over the expansion of the mining industry and arguments over land. Mining exploration permits were issued by provincial governments, but local authorities were entitled to restrict land use and the issue sometimes came before the courts. In 2014, there had been 10 court cases, 7 had been decided in favour of the herder.

34. **Mr. Baavgai** (Mongolia) said that, thanks to foreign investment, the Mongolian economy had benefited significantly from mining, with the result that it had recorded a remarkable 17.5 per cent growth rate in 2011, although the rate had fallen to 7 per cent by 2014. Regrettably, the Government had not been properly prepared for the consequences of the expansion of mining and had failed to accumulate savings from the profits of the boom years. All the revenues had been distributed under the Government's social protection

policy, without due consideration being given to the negative effects. The country had learned an important lesson.

35. **Ms. Narantuya** (Mongolia) said that a law on transparency and the right to information had been adopted in 2011 with a view to preventing corruption. Under the Civil Service Act, civil servants were required to declare that they would not seek to derive undue personal gain from their employment in the civil service. Information on civil service incomes was regularly posted online. State bodies were also required to disclose details about all their financial expenditures, particularly with regard to State procurement transactions, by posting the relevant information on their websites. A law against money-laundering and the financing of terrorism had been enacted in 2013.

36. **Mr. Baavgai** (Mongolia) said, in reply to a question about how mining had benefited Mongolia, that legislation had been adopted to give every citizen the opportunity to buy 1,072 mining shares. As for the difference between large and artisanal mines, the large mines were mostly established with foreign direct investment and operated under a different legal regime from artisanal mines. Profits from mines were channelled into a savings fund for the benefit of all, especially children and vulnerable population groups such as those living below the poverty line and minorities. A bill on setting up such savings funds was currently before the parliament.

37. **Mr. Tuvaan** (Mongolia) said that the number of occupational hazards in mining was comparatively high, depending on the type of production involved. Miners paid insurance amounting to 1 per cent to 3 per cent of their salary and the premiums were paid into a fund for persons suffering from occupational injuries.

38. Herders made up 30 per cent of the labour force. For some years, their numbers had fallen, but 4,500 more herders had been registered in 2014 thanks to new policies, under which, for example, herders received subsidies for animal products sold to State factories. Moreover, herders were not charged for using pastures. The economic importance of herding had diminished slightly: previously, herding had accounted for the largest proportion of the country's gross domestic product, but it now took second place after mining.

39. Amendments to pension legislation were currently being considered by the parliament. Pensions in Mongolia were contributions-based and the country was moving towards the adoption of a universal pension model. Irrespective of contributions paid, all citizens in Mongolia received a basic pension. An additional amount was payable for each year after 10 years of contributions and, after 20 years of contributions, the full pension was payable. Women who had not paid into the pension system received a State welfare allowance from the age of 55, while men received it from the age of 60. Women were eligible to receive a pension from the age of 55 but the law allowed them to defer retirement until the age of 60 if they so wished.

40. **Ms. Ravenberg** said that she welcomed the adoption of a law on HIV/AIDS prevention and the prohibition of discrimination in respect of the delivery of health-care services. She also welcomed the newly-developed laws on crime and labour which contained forward-looking provisions on discrimination. She said that it was regrettable, however, that a national committee on AIDS had yet to be established and that civil servants responsible for implementing the policy on the rights of persons living with HIV/AIDS had been found to have inadequate knowledge, careless attitudes, and insufficient information about the issue. There was also a problem of a high staff turnover. She asked when a national committee on AIDS would be established and what the impact of the policy on HIV/AIDS had been. The Committee had been informed that rules and regulations that opened the way for discrimination to be practised against people living with HIV/AIDS were still being adopted in Mongolia. For example, there was mandatory testing

for job applicants and for users of public swimming pools. She wished to know whether the Government had a programme to provide education on methods of HIV transmission. As Mongolia did not appear to have a standalone anti-discrimination law, she wondered whether there was a national anti-discrimination policy that covered persons with disabilities, LGBT persons and persons living with HIV/AIDS.

41. **Mr. Ribeiro Leão** noted that poverty in Mongolia had increased since 2007. He asked whether the State party intended to establish effective measures or plans to combat poverty.

42. **Mr. Pillay** said that the incidence of poverty was higher among families with many children. He asked whether targeted policies had been put in place to support marginalized and disadvantaged groups and whether the State party intended to designate a lead ministry to formulate poverty-reduction strategies and establish monitoring and accountability mechanisms. He said that he wished to know what measures had been taken to improve living conditions of people in “Ger” areas. The State party had not given a satisfactory reply to the question in the list of issues concerning the negative impact of the introduction of the “Ger Area Development Regulation” which had led to forced evictions of certain property owners and of residents without legal title. If the State party did not have a law on forced evictions that was compatible with international standards, he requested that one should be drafted in line with the Committee’s general comment No. 7 on forced evictions. He said that he wished to know how widespread homelessness was in Mongolia, whether the numbers of homeless people had increased since 2012 and whether shelters were provided for homeless people.

43. **Mr. De Schutter** noted that the value of food vouchers had been slightly raised although the additional allowance would only cover 1.5 kilograms of meat per month for an adult or 3 litres of milk for a child. He would welcome accurate information on the scope of the food voucher programme and whether it would be extended in the future. Food vouchers were no substitute for better incomes, however. He asked what measures had been taken to align incomes with food prices. Concerning the adequacy of food, the State party had indicated in its report that meat, dairy products, sugar and flour were the main components of diets. He asked what steps the Government had taken to encourage people to follow healthier diets that included vegetables. Noting that restrictions had been placed on a food laboratory that had published information on unacceptable levels of pesticide residues in vegetables, he asked what measures were in place to ensure the independence of food laboratories.

44. **Mr. Dasgupta** said that mining operations could have a serious environmental impact on the quality of water, soil and air and adversely affect the livelihoods and health of pastoral and farming communities. He asked whether an environmental impact assessment must be conducted before a mining operations licence was issued. What preventive or remedial measures were mining companies required to take place and were such companies required to fully compensate communities or pay taxes that covered the full cost of remedial measures?

45. **Mr. Chen** said that Mongolia had not met the Millennium Development Goal target of ensuring that all children completed a full course of primary schooling: 5 per cent of children aged between 6 and 11 years did not attend school. He asked what measures had been taken to improve primary school attendance, lower the school drop-out rate, and enhance educational provision for children with disabilities.

46. **Mr. Atangana**, noting that Mongolia had introduced a law on domestic violence but that since the police sometimes discouraged complainants from pursuing cases, asked what measures had been taken to facilitate access to the courts. He asked what steps had been



taken to prevent forced and early marriage and to clamp down on child abductions, which occurred quite often and ended in forced marriage with the perpetrators.

47. **Mr. Martynov** recalled that, in its previous concluding observations, the Committee had expressed its deep concern that the State party had not been able to mitigate the adverse effects of poverty on children. He said that he wished to receive disaggregated data on child poverty over the previous five years and information on any tools or strategies used to combat child poverty. The Gini coefficient in Mongolia was very high and had remained unchanged for a number of years. The bottom 20 per cent of the population did not appear to benefit from economic development. He asked whether the Government had a strategy to address the acute inequality in incomes.

48. **Mr. Uprimny Yepes** said that the Government had acknowledged that meeting the challenge of providing drinking-water had been made more difficult because of contamination resulting from mining activities. Although efforts had been made to purify contaminated water, rigorous measures had not been taken to prevent contamination. It was difficult to ensure access to justice because the legislation in force authorized only those directly affected by contamination of the environment to bring the matter before the courts. He asked whether the Government was prepared to modify the law in order to allow public interest litigation in cases involving environmental damage.

49. **Mr. Kedzia** said that, according to a survey conducted in 2013, violence against children in Mongolia was a significant problem, with almost half of those aged between 1 and 14 years having been subjected to psychological or corporal punishment by a household member. He wished to know what impact the creation of a child helpline in 2014 had had and whether there were other plans to assist children, especially vulnerable young girls subjected to domestic violence and violence in school. Given the relatively low age of admission to employment and reports that children were working in hazardous occupations in horse-racing and mining, he said that he wished to know what impact the 2012 national action plan against the worst forms of child labour had had. Did marginalized and vulnerable groups and those living in remote areas benefit from having access to the Internet and to online public services?

50. **Mr. Kerdoun** asked whether the non-formal centres which had been set up for children who had never been enrolled in school or who had not completed their primary or secondary education provided a solution to the problem of young persons dropping out of school and whether they addressed the underlying social causes. He wished to know why 5 per cent of children aged between 6 and 11 years of age had never been to school and why a larger number of boys than girls aged between 11 and 15 years did not attend school. What measures were in place to support children in ethnic and linguistic minorities, given their elevated school drop-out rates? He inquired what the reasons for low attendance at pre-school establishments in rural areas and why school classrooms in rural areas were overcrowded. He asked why no clear policies were in place to provide for education of children with disabilities.

*The meeting rose at 6 p.m.*