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Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Mongolia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document is being issued without formal editing.

1. Mongolia welcomes the recommendations received on November 4, 2020 during the 36th session of the UPR Working Group, and provides hereby its views on the recommendations.
2. Upon thorough consideration, the Government of Mongolia supports 170 recommendations and reconfirms its position to note the remaining 20 recommendations, as previously indicated during the 36th session of the UPR Working Group, however, with the following technical modifications. Mongolia observed that there had occurred a misplacement of 2 recommendations, namely, 116.170 and 117.18 and decided to move the recommendation 117.18 into the category of supported recommendations and the recommendation 116.170 to the category of noted recommendations accordingly.
3. To be precise, the supported recommendations are 116.1–116.169 and 117.18 as most of them are in the process of implementation or concur with the broader policy objectives of the Government. And the recommendations that are noted are 116.170, 117.1, 117.2, 117.3, 117.4, 117.5, 117.6, 117.7, 117.8, 117.9, 117.10, 117.11, 117.12, 117.13, 117.14, 117.15, 117.16, 117.17, 117.19 and 117.20 as listed in order in the Report of the UPR Working Group.
4. Responses to the unaccepted recommendations have been grouped thematically below.

Recommendation 117.1

5. An open selection of the member of the National Human Rights Commission of Mongolia in charge of torture prevention was announced by the Standing Committee on Legal Affairs of the State Great Hural on December 10, 2020, and the applications were received over a period of 30 days until January 10, 2021. A total of 6 candidates have applied and the screening process is ongoing. Appointment of the Commissioner in charge of torture prevention will constitute the establishment of the National Preventive Mechanism and enable undertaking of independent action on torture prevention at the national level. Due priority, thus, would be accorded to strengthening the work of the National Preventive Mechanism.
6. Mongolia fully supports the work and competence of the Human rights treaty bodies. The Government will further consider recognizing the competence of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Recommendations 117.2, 117.3, 117.4, 117.5, 117.19 and 117.20

7. Mongolia is a State party to eight of the core international human rights instruments alongside the core ILO conventions on workers' rights. Whilst works to study the possibility of acceding to the International Convention on the Rights of All Migrant Workers and Members of their Families have been undertaken by the relevant authorities of Mongolia, accession to the Convention cannot be considered at this time. Furthermore, the Government of Mongolia would like to see more countries, especially those of recipient countries of foreign workers including Mongolians, join the International Convention before it considers doing so.
8. The Government of Mongolia remains steadfast in its efforts to combat human trafficking. Trafficking in human beings is criminalized, and a host of policy measures including the adoption of the National Program on "Combatting the Crime of Trafficking in Persons" in 2017 and the establishment of a National Sub-Council with responsibilities to oversee the implementation of the Law on Combatting Human Trafficking have been undertaken and implemented. Further attention will be duly and continuously given to this matter.

9. Given that domestic work is a non-traditional form of employment in Mongolia, the Government of Mongolia maintains its position that it will study the possibility of acceding to the ILO 189 Domestic Workers Convention at an appropriate time in the future.

Recommendations 116.170, 117.6, 117.7 and 117.8

10. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol have always been in careful consideration by the relevant authorities of Mongolia. Strongly coupled with the national security policy of the State, a decision to accede to these instruments is ultimately a matter of the Parliament of Mongolia and cannot be considered at this time. Further analysis on the matter needs to be done.

11. Although Mongolia has not acceded to the 1951 Convention relating to the Status of Refugees, it has been adhering to its obligations in compliance with the international human rights treaties that it is a party to. The Mongolian Immigration Authority issues official permits of residence in accordance with the relevant procedures to the foreign citizens who have come to Mongolia to seek refuge in a third country or those who reside temporarily in the country and have applied for refugee status until their request has been addressed by the Office the United Nations High Commissioner for Refugees (UNHCR). The Government will continue to work together with the UNHCR in ensuring that asylum-seekers have access to their rights, particularly in compliance with the principle of non-refoulement.

Recommendations 117.9 and 117.10

12. In Mongolia, a stateless person enjoys the same rights and freedoms as foreign nationals. Nationality and citizenship of a child born from a stateless person is regulated by the Law on Citizenship and Nationality. The national security policy also requires maintaining an appropriate balance of foreign nationals, stateless persons and migrants in the country. These laws and policy documents fully support the rights of stateless persons under the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

Recommendations 117.11

13. Studies conducted by the national research institutes have found that instead of adopting an independent anti-discrimination law, a more effective way for enforcement would be to incorporate the relevant clauses in the sector-specific legislations. Further attention will be duly given to this matter and to enhancing and ensuring the implementation of the existing stipulations in the laws.

Recommendations 117.12 and 117.13

14. The Constitution as well as the Family Law of Mongolia defines marriage as being based on the equality and free and voluntary consent of a man and a woman who have reached the age determined by law.

15. The revised Criminal Code criminalizes discrimination. Incorporation of prohibition of discrimination "on the basis of sexual orientation and gender identity" in the Code provides a legal incentive for protecting the rights of persons with different sexual orientation and gender identity. Within the criminal justice reform, the principle of non-discrimination based on sexual orientation and gender identity has been reflected in several other laws and regulations.

Recommendations 117.14, 117.15, 117.16 and 117.17

16. Mongolia, complying with the obligations set forth in the Second Optional Protocol to the International Covenant on Civil and Political Rights has abolished death penalty with the entry into force of its new Criminal Code as of 1 July 2017. Prior to this, a moratorium was imposed in 2010 on the use of the capital punishment, which had not been utilized since.
