

# **The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia**

Shadow report for the 42nd CEDAW  
Committee Session  
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## 1. Executive Summary

There is widespread societal and institutional discrimination against, and intolerance of, lesbian and bisexual women and transgendered persons in Mongolia which is manifested in varying forms, from ostracism and harassment to physical and sexual violence. The discrimination is endemic in the public, private and non-governmental sectors and encompasses the police and the judiciary, health services, education, the housing sector and the media.

There is a demonstrated need to practically redefine the concept of human rights in Mongolia to ensure the inclusion of the rights of sexuality minorities in light of the State-sanctioned and social marginalisation to which they are subject.

Because the LBT community has been prevented from engaging in meaningful interaction with the Government on programming and policymaking in relation to sexuality minorities as a result of the victimisation and stigmatisation they face from the State agencies, and because the LBT community has been traditionally silent and largely excluded from mainstream social discourse, the breaking down of the barriers of silence and discrimination need to be guaranteed by not only the existing broad legislations and regulations pertaining to non-discrimination, but also through the creation of new laws and legislations that ensure human rights and dignity for sexuality minorities. In essence, reform must be geared towards the mainstreaming of sexual minorities' human rights.

The members of the Coalition of Mongolian LGBT activists believe the Government of Mongolia has acted in contravention of the spirit of CEDAW through its direct engagement in, or systematic ignoring of, exclusionary practices that deny LBT persons their enjoyment of human rights and fundamental freedoms, and has failed to provide an environment that is conducive for LBT persons to fully participate in life.

Therefore we make the following **recommendations** for the Government of Mongolia in relation to its obligations under CEDAW:

- In relation to Article 2a, revise the Constitution of Mongolia to include non-discrimination on the basis of sexual orientation in order to provide the basis for non-discrimination and mainstreaming of human rights in programmes, activities and national mechanisms; and specifically enact new amendments in the relevant legislations specifying recourse mechanisms if and when related abuses take place. This recommendation is consistent with Article 8 of the Universal Declaration on Human Rights, and Article 16 (14) of the Constitution of Mongolia.
- In relation to Article 2b, to review and reform criminal laws to ensure that they are consistent with international human rights obligations and are not targeted against vulnerable groups.
- In relation to Article 2c, to enact anti-discrimination and other protective laws that protect sexuality minorities in both the public and private sectors, ensure privacy and confidentiality, emphasise education and conciliation, and provide for speedy and effective administrative and civil remedies.
- In relation to Article 2d, regularly conduct human rights and civil rights trainings for police on the rights of sexuality minorities, and conduct trainings and seminars on international human rights standards for the judiciary and lawyers in view of implementing the right to seek recourse through judicial structures if the rights and

liberties of sexuality minorities that are guaranteed by international law are infringed upon either by individuals or by the State.

- In relation to Articles 2d and 2e, guarantee non-discrimination based on sexual orientation in the workplace, including both private and public institutions, and ensure that the government and the private sector develop codes of conduct regarding sexuality minorities that translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.
- In relation to Articles 2d and 2e, make concerted efforts towards the guarantee, protection and implementation of human rights in accordance with Article 10 (2) of the Constitution of Mongolia, “Mongolia shall fulfil in good faith its obligations under international treaties to which it is a party”, and Article 10 (3) of the Constitution of Mongolia, “the international treaties to which Mongolia is a party shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession”.
- In relation to Article 5a, in collaboration with and through the community, promote a supportive and enabling environment for sexuality minorities by addressing underlying prejudices and inequalities through community dialogue and specially designed social services and support for sexuality minorities.
- In relation to Article 5a, promote the widespread and ongoing distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatisation against sexuality minorities to understanding and acceptance.
- In relation to Article 10c, revise education materials to reflect a diverse and non-heteronormative view of Mongolian society to ensure greater understanding and acceptance of LBT persons.
- In relation to Article 10c, reflect legal and social issues pertaining to sexuality minorities’ human rights in the education and research curricula based on domestic and international developments and literature and studies.
- In relation to Article 12.1, provide ongoing training for healthcare providers on the health issues, both physical and psychological, that pertain to sexuality minorities.
- In relation to Article 12.1, provide counselling services specifically for LBT persons.
- In relation to General Recommendation 19, ensure through legislation equal protection for LBT persons who are victims of sexual violence.
- In relation to General Recommendation 19, provide training for the legal and health sectors on the prevalence of sexual violence against LBT persons and their obligation to uphold non-discriminatory and inclusive practices, including the preservation of dignity and confidentiality, in their dealings with LBT sexual-abuse victims.

## 2. About the Coalition of LGBT Rights Activists

The Coalition of LGBT Rights Activists is an informal network of concerned people from civil-society organisations and the public who are committed to raising awareness of sexuality minorities, facilitating legislative change to protect the rights of lesbian, gay, bisexual and transgendered (LGBT) people, and ending the widespread social and institutional discrimination and persecution of the LGBT community in Mongolia.

## 3. Preparation of the Report

The evidence of discrimination against lesbian and bisexual women and transgendered persons (henceforth referred to as LBT persons) in Mongolia presented in this report is largely anecdotal. Because of the institutionalisation of the intolerance and discrimination against LBT persons (all levels of government, police, the legal and health sectors and the media) and the reality that there is very little, if any, likelihood of legal recourse, LBT persons in the main do not report incidences of discrimination or violence for the very real fear of secondary victimisation, predominantly from the police. The retributive violence of the police is supported by anecdotal evidence and is a very real fear for the LBT community. Hence there is nothing in the way of comprehensive documented evidence to support the negative experiences of Mongolia's LBT persons, and thus most evidence is anecdotal, as told to other members of the LBT community and as reported to organisations like the now-defunct Mongolian Lesbian Information Centre. Indeed, it could be argued that the lack of such documentation itself points to the extent of the violence and social intolerance towards LBT persons, whereby the victims themselves are unable to report crimes against them as they are unwilling to disclose the grounds on which they were attacked.

The report/research methodology is qualitative, based on one-on-one interviews with LBT community members, representatives of women's and human rights non-governmental organisations and literature review. Interviews with members of the LBT community were conducted on the basis of strict confidentiality, with participants agreeing to speak only if their identities were not revealed.

## 4. Introduction

*"Here I am, a law-abiding, tax-paying citizen, and I am not free, I am full of fear every day. I want to live without fear." – Mongolian lesbian, Ulaanbaatar, 2008*

In 1990, Mongolia made the transition from a centrally planned, authoritarian socialist country to democratisation and a free market economy. For the first time in 70 years, it opened its doors to the outside world, embarked on a series of political, social and economic reforms<sup>1</sup>, and gave prominence to the concepts of human rights as outlined in a range of international treaties and declarations to which it is a party. These include the Convention of the Elimination of All Forms of Discrimination Against Women, the Universal Declaration of Human Rights, 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 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

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<sup>1</sup> For general references on Mongolia's transition in early 1990s, see the following: Nordby, Judith (1994) "Mongolia: A Centrally Planned Economy in Transition" in *The China Quarterly*, no.139; Cheung, Tai Min (1991) "Mongolia: The Cure Hurts" in *Far Eastern Economic Review*, vol.153, no. 38, September 19; Batbayar, Tsendendamba (2003) "Foreign Policy and Domestic Reform in Mongolia" in *Central Asian Survey*, vol. 22, no.1; Sabloff, Paula (2002) "Why Mongolia? The Political Culture of an Emerging Democracy" in *Central Asian Review*, vol. 21, no.1.

However, based on the real-life experiences of the sexuality minority community, grave doubts exist about Mongolia's stated commitment to upholding human rights for all its citizens in light of the widespread discrimination routinely reported by the country's sexuality minorities, who in general are perceived as not conforming to pre-set notions of female gender identity, who routinely face gender-based violence and who are often victims of hate crimes, including sexual violence.

These doubts raise such questions as: Is Mongolia truly fulfilling its international human rights and women's rights obligations? Are all civil liberties being assessed when evaluating Mongolia's commitment to human rights and women's rights? Is Mongolia exercising exclusivity in the acknowledgement and upholding of women's rights and in its commitment to fulfilling its CEDAW obligations?

Despite Mongolia's outward commitment to the upholding of human rights, it is a country with deeply entrenched social and institutional intolerance of homosexuals; intolerance that manifests itself in varying forms, from ostracism and harassment to physical and sexual violence. Such violence generally comes from family members to whom LBT persons either "come out", or who are found out to be non-heterosexual, and not usually random violence from strangers. So prolific is the prejudice and hatred that very few LBT persons have escaped some degree of harassment and violence when their sexual orientation has become known.

Overall there is much misunderstanding and outright ignorance about homosexuality throughout Mongolia. This nationwide ignorance is perpetuated by the media, which helps to reinforce discrimination. What little news coverage is given to the issue is predominantly sensational, highly prejudicial and laced with derogatory and inflammatory language. This negative and ultimately harmful rhetoric is also used by politicians at all levels of government. In essence, what this does is create a climate of hatred, fear and mistrust against the LBT community and give justification to acts of violence and harassment on the part of individuals and the police. Indeed, there is anecdotal evidence to suggest that the General Police Department and the State Intelligence Agency keep a dossier on Mongolian homosexuals, claiming that homosexuals are a threat to national security<sup>2</sup>.

There is no mention in the 1992 Constitution of Mongolia regarding non-discrimination based on sexual orientation, even though Mongolia is a party to all UN human rights conventions and covenants, among which are provisions specifically covering non-discrimination based on 'other status' deemed to include sexual orientation. International organisations within the UN systems and international NGOs do not identify LGBT discrimination and human rights violations based on sexual orientation and gender identity to be one of the areas of concern in Mongolia, which reflects the heteronormative framework within which human rights is viewed. In terms of broader education, with the exception of the Sexual and Reproductive Health Secondary School subject textbook, in which the lives of three gay people are described, the secondary education curriculum does not carry any comprehensive information regarding sexual orientation, which further normalises the idea of heteronormativity.

The Government of Mongolia does not officially recognise the existence of LBT persons within its territory, with an overwhelming legal silence regarding the LBT community. The words "homosexual", "lesbian", "gay", "transgendered" or "transsexual" do not appear in any laws and

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<sup>2</sup> The daily newspaper *Udriin Sonin* reported in June 2006 that the Government of Mongolia had convened a National Security Meeting regarding the state of HIV/AIDS in Mongolia and homosexuals were discussed as a high-risk people in a meeting that involved National Security officials and representatives of the Health Ministry and relevant health agencies.

regulations, and the only specific references in the Mongolian law to gays or lesbians or to homosexual sex is the identification of homosexual men as a high risk group for HIV/AIDS<sup>3</sup>. Heteronormativity is institutionalised in both social and legal spheres as a result of the State's silence and disregard of such issues as:

- A high rate of hate-inspired crimes against LBT persons<sup>4</sup>;
- Suicides/attempted suicides and chronic depression among LBT persons;
- Legal and social invisibility and subsequent marginalisation;
- The denial of the fundamental human right to sexual orientation;
- The endemic non-recognition and delegitimation of LBT identities;
- The non-citizen/secondary citizen status of LBT persons;
- Secondary victimisation by various state agencies, such as the police, legal and health sectors;
- A lack of understanding of same-sex domestic violence and the subsequent silence surrounding LBT domestic violence in the LBT community itself, as well as within those civil society organisations working on the issue of domestic violence. In fact, no reference is made to same-sex violence in the Law on Domestic Violence enacted in 2004.

Despite domestic and international affirmation of the importance of human rights by the Government of Mongolia through various international covenants and domestic legal instruments, it still frames human rights discourse in a heteronormative, exclusionary and narrow manner. In essence, government practices leave a lot to be desired in regard to many basic freedoms and liberties where sexuality minorities are concerned, and it is perhaps fair to conclude that the Government of Mongolia is pro-human and women's rights only in rhetoric given that human rights, women's rights and basic freedoms and liberties have been repeatedly encroached upon by the State under the pretext of maintaining public safety and social stability.

A country human rights report on Mongolia released by the US Department of State released every year<sup>5</sup> paints a clear picture that while the Government of Mongolia generally upholds human rights and basic freedoms and liberties, it is not necessarily a human rights champion. To further highlight the point that there is due recognition but a lack of concerted efforts and mechanisms to ensure human rights implementation in Mongolia, one programme is quite illustrative. Following the Millennium Development Declaration of 2000, aid effectiveness and coordination issues were introduced into the agendas of international organisations and national governments. As a follow-up to that, in 2005 the Government of Mongolia in conjunction with several UN agencies (UNDP, WHO, UNICEF) established the Aid Effectiveness and Harmonisation Programme that targeted a number of areas of concern and coordination, including human rights education<sup>6</sup>. It is ironic that the same government that disregards the fundamental freedoms and rights of LBT persons should recognise the need for overall human rights education in this programme of aid coordination. It illustrates that the Government of

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<sup>3</sup> Patel, Arthi and Amarsanaa D. (2000) "Reproductive Health, Gender and Rights in Mongolia", for *MOHSW and UNFPA project MON/97/PO8 Reproductive Health Advocacy*, p.25.

<sup>4</sup> According to "The Causes and Circumstances of Crimes in Urban Settlements in Mongolia", a UNDP Mongolia commissioned study conducted by the Sociological Academy of Mongolia in 2005, only 17.5% of all victims of crimes choose to report the incident to police.

[http://www.politics.mn/index.php?option=com\\_content&task=view&id=295](http://www.politics.mn/index.php?option=com_content&task=view&id=295). The fact that one will be forced to disclose one's sexual orientation when reporting the crime is perceived by authors to be a further deterrent to the non-reporting of crimes by the LBT community.

<sup>5</sup> US Department Bureau of Democracy, Human Rights and Labour, "The Country Reports on Country Practices", Mongolia 2007 <http://www.state.gov/g/drl/rls/hrrpt/2007/100530.htm>

<sup>6</sup> Detailed information regarding the aid coordination program is available at the following address:

<http://www.undg.org/unct.cfm?module=AnnualReport&page=Workplan&CountryID=MON&Year=2005&LanguageID=en>

Mongolia does not consider LBT persons to be of any concern in society, nor does it consider that LBT persons have any rights.

Another illustration of this was Mongolia's stance during the discussion on the issue of the International Lesbian and Gay Association (ILGA)'s accreditation to the UN World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance in September of 2001. During those discussions, a Mongolian representative, together with representatives from China, India, Sri-Lanka, Singapore and Vietnam, objected strongly to the organisation's accreditation<sup>7</sup>.

It is clear that the LBT persons of Mongolia are omitted from legalistic, social and human rights frameworks, and are relegated to the fringes of a grey social discourse.

To sum up, Mongolia – a country of 2.7 million people – theoretically has nearly 300,000 lesbians and gays. However, the complex problems of structural adjustment from a centrally planned to a market economy and the building of a democratic and open society have relegated their basic human rights to the periphery as the Government of Mongolia claims that only the development of the country is of the highest priority. In its efforts to alleviate increasing poverty and endemically increasing social inequalities, the government is choosing the “Asian Way” – a model of economic development that curbs human rights as incompatible with the overall goal of development. However, development that brings with it a more or less modified, but essentially the same old socialist/dictatorial regime of limited civil and political liberties, is not development, but rather a reversal and regress. The ignoring of the rights of sexuality minorities is not representative of a democracy, and it is not compatible with the democratic values that Mongolia as a state professes to uphold, and it is contrary to Mongolia's obligations under the human rights treaties and conventions to which it is a party, including CEDAW – in particular, as detailed below, Articles 1, 2a, 2b, 2c, 2d, 2e, 5a, 10c, 12.1 and General Recommendation 19.

## 5. Historical Perspective

### i. Pre-democracy

Until the late 17<sup>th</sup> century, Mongolian society was traditionally and predominantly a shamanic society in which homosexuality and gender fluidity was historically recognised and accepted as normal, and even exalted, according to various ethnographic studies<sup>8</sup>. The rationale behind acceptance and recognition appears to have stemmed from the revered status that shamans occupied in society thanks to their importance in the lives of local people as intermediaries connecting the natural and spirit worlds to the human world. According to those aforementioned ethnographic studies, the gender roles of shamans were often reversed: female shamans were known to marry women and live the lifestyle of a man – dressing in male clothing, hunting and drinking with other men – while male shamans were often married to men and lived a woman's lifestyle – dressing in female clothing and undertaking female chores together with other women such as mending and making clothing<sup>9</sup>. At the core of the acceptance of this gender fluidity lay the belief that only those shamans who had been able to transcend their birth gender, among other things, were recognised to have achieved the true esteemed status of a shaman.

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<sup>7</sup> See the references to opposing country positions on ILGA accreditation from the following ILGA news item [http://www.ilga.org/news\\_results.asp?FileCategory=7&ZoneID=7&FileID=1078](http://www.ilga.org/news_results.asp?FileCategory=7&ZoneID=7&FileID=1078)

<sup>8</sup> Balzer, Marjorie Mandelstam (2003) “Sacred Genders in Siberia: Shamans, Bear Festivals, and Androgyny” in Harvey, Graham (ed.) (2003) *Shamanism: A Reader*, Routledge: London and New York, pp. 242-261.

<sup>9</sup> Eliade, Mircea (1988) *Shamanism: Archaic Techniques of Ecstasy*, Routledge: London, p.125

With the advent of Buddhism in the late 17th century, primarily a result of political reasons, the traditional acceptance of homosexuality and gender does not appear to have waned, but rather was reinforced through the Buddhist doctrine of karma. According to the Buddhist law of karma, a soul must journey through many earthly matters from lifetime to lifetime, from incarnation to reincarnation, including becoming a different gender with each reincarnation in order to achieve the necessary spiritual enlightenment and thus break free from the karmic circle and reach nirvana. If the soul was supposed to be born into this world as a woman according to its karma, but ends up in a man's body, the soul will still retain its karma - that is, it will still experience the designated life experiences of a woman, more or less. And vice versa for a soul that was supposed to be reincarnated as a man. Furthermore, Tantric Buddhism also preaches homosexual activities as one of the ways to raise the creative energy, kundalini, and thereby gain enlightenment.

During socialist times, the Government did not outlaw homosexual identities per se, but listed the "immoral gratification of one's carnal needs" in Section 113 of the Criminal Code of Mongolia, a section that remained unmodified after Mongolia's democratisation and after similar sections of Criminal Codes were repealed from the laws of the Russian Federation and other CIS countries (former USSR republics). From historical as well as traditional perspectives, an artificial production and reproduction of immorality – and even criminality – discourse around LGBT identities was based on socialist ideology, and this discourse was both safer and more dangerous for sexuality minorities at that time.

Because the Government chose not to propagate extreme intolerance regarding sexuality minorities, there was no public rhetoric on the subject and there was very little social awareness about the issue. However, sexuality minorities faced more danger than before; if a person was found out to be LGBT, they faced imprisonment and incarceration at reform institutions, as well as all the attributes of human rights violations, coupled with social ostracism. The highly ideologised socio-cultural system of the socialist times engendered in the relatively short period of 70 years a diehard socialist discourse of "un-socialist immorality", which gave rise to extreme fear and silence for Mongolia's sexuality minorities, and subsequently resulted in an inability on the part of LGBT people to successfully articulate their rights as human rights after the democratisation process began in the early 1990s.

## **ii. Post-democratisation**

Fundamental human rights, as well as civil liberties and political freedoms, were upheld in the new Constitution of 1992 and various other legislations; however non-discrimination based on sexual orientation remains unarticulated in any of those instruments. From early 1991 and 1992, with the introduction of cable television in Mongolia and an influx of foreign movies and music, social attitudes began to change, and the heteronormative public discourse was breached with images of homoeroticism and homosexuality, leading toward the potential enabling of the public sphere for the first time in the history of 20th century Mongolia. This was further contributed to by the mass media's newly found (but yet to be fully realised) freedom of the press, which exposed Mongolian society to the existence of sexuality minorities. However, the mass media's ignorance, which was reflective of the general population's ignorance regarding sexuality minorities, also led to sensationalisation of LGBT identities as un-Mongolian, and therefore the socialist rhetoric and discourse of immorality was further reinforced through unethical media reporting.

Increased visibility always brings more risks to marginalised communities. Because there was more awareness in the broader heterosexual community that sexuality minorities existed in their midst, social attitudes became decidedly more intolerant, giving rise to systemic discrimination, homophobic violence and the incitement of violence against sexuality minorities through various

homophobic television programs and popular art. This has been exacerbated by the HIV/AIDS epidemic, which prompted the government to begin the rhetoric of “homosexuals as a threat to national security” in early 2004. However, thanks to the work of a small band of LGBT activists, there is now increased awareness and self-acceptance among sexuality minorities in Mongolia about their human rights and the fundamentality of one’s sexual orientation. The challenge now is to incorporate those rights into the Government of Mongolia’s political discourse and its international human rights obligations.

## **6. The status of Mongolia’s lesbian and bisexual women and transgendered persons under specific CEDAW articles**

### **Article 1:**

The Coalition of Mongolian LGBT Rights Activists contends that the definition of discrimination against women as outlined in Article 1, meaning “any distinction, exclusion or restriction made on the basis of sex”, includes discrimination against women on the basis of their sexuality and/or gender identity. It would be contrary to the notion of the inclusivity of all women if issues relating to sexuality and gender identity were not given equal consideration under Article 1. We consider there to be a broad range of discriminatory and exclusionist practices in existence in Mongolia that directly impair LBT persons’ “enjoyment or exercise” of human rights and fundamental freedoms, given that the right to one’s sexuality has been recognised by the United Nations as one of those fundamental freedoms. One Mongolian lesbian said: “Here I am, a law-abiding, tax-paying citizen, and I am not free; I am full of fear every day. I want to live without fear.” Another said: “There is a need to ensure that we (LBT persons) are provided with the same conditions for life as anyone else. We have a right to be as free as anyone else. I want to live freely, I want to work, I want to have democracy even in my personal life. There is no need to discriminate against people on the basis on their sexual orientation.” We contend that, because of the prevailing societal sentiment in regard to sexuality minority issues, the Government of Mongolia has systematically ignored or dismissed the plight of LBT persons throughout the country and has failed to provide an environment that is conducive for LBT persons to fully participate in life and to enjoy their fundamental freedoms.

### Recommendation:

Therefore we recommend that the Government of Mongolia recognise the human rights violations taking place against the LBT community and ensure that all subsequent discourse, practice and policy on women’s rights in Mongolia includes those pertaining to LBT persons.

### **Article 2**

**Articles 2a, 2b, 2c:** We contend that the notion of equality for all women must include equality for LBT persons, and that this must be reflected in the Mongolian Constitution and relevant legislation. As stated in the introduction, the Government of Mongolia does not officially recognise the existence of LBT persons within its territory, and there is no mention of the words “homosexual”, “lesbian”, “gay”, “transgendered” or “transsexual” in the Constitution or in any legislation or legal instruments. In essence, this means there are no legal protections for LBT persons and a subsequent ignorance in the legal sector of their basic human rights. One Mongolian lesbian said: “There is a need to amend the laws and to ensure that we are treated equally ... I just want some legal provisions that will provide us with the same rights as anyone.” Anecdotal evidence suggests that LBT persons are reluctant to report incidences of discrimination and violence or seek legal redress for the very real fear of secondary victimisation at the hands of the legal authorities or of unwanted media attention and the resulting possibility of harm from others should their cases become public knowledge.

## Recommendation:

We therefore recommend that the Government of Mongolia:

- In relation to Article 2a, revise the Constitution of Mongolia to include non-discrimination on the basis of sexual orientation in order to provide the basis for non-discrimination and mainstreaming of human rights in programmes, activities and national mechanisms; and specifically enact new amendments in the relevant legislations specifying recourse mechanisms if and when related abuses take place. This recommendation is consistent with Article 8 of the Universal Declaration on Human Rights, and Article 16 (14) of the Constitution of Mongolia.
- In relation to Article 2b, to review and reform criminal laws to ensure that they are consistent with international human rights obligations and are not targeted against vulnerable groups.
- In relation to Article 2c, to enact anti-discrimination and other protective laws that protect sexuality minorities in both the public and private sectors, ensure privacy and confidentiality, emphasise education and conciliation, and provide for speedy and effective administrative and civil remedies.

## **Articles 2d, 2e:**

We contend that discriminatory practices against LBT persons in Mongolia are widespread and pervasive and encompass both the private and public sectors. There is anecdotal evidence to suggest that, notably, the General Police Department and the State Intelligence Agency are actively engaged in discriminatory practices and human rights violations against the LBT community, including keeping files on known LBT persons, monitoring LBT social events and photographing/filming those in attendance, phone-tapping, arbitrary arrests, harassment, intimidation, threats, and physical and sexual assaults.

Staff at the now defunct Mongolian Lesbian Information Centre, the first LBT organisation established in Mongolia, cited police harassment and threats to prosecute staff for the dissemination of pornography as one of the main reasons for the centre's demise in 2004. "The police started calling our hotline number," said one former employee. "I don't remember the name of the person ... but he was from the Criminal Cases Division of the Police General Department. He would say, 'Why are you publicly propagating pornography? Do you know that it is forbidden by law? You are ordered to stop the activities you are engaged in, and you must come to the Criminal Cases Division for an interrogation.' I was so scared ... In a way, I was also very calm because I knew that I was not breaking the law and that such information on sexual orientation was the right of the public to know."

Another lesbian who was sexually assaulted on three occasions in Ulaanbaatar in the past decade did not report the attacks to the police for fear of retribution if her sexuality became known. "I was very scared," she said. "I know of this gay guy who was walking down the street talking to his friend and they were stopped by the police because somehow the police were able to identify them as gay from their looks. They were simply walking, and they were stopped and frisked and arrested and taken back to the police station and told, 'So they say you have sex like that. How do you do it? Show us'. They were so pressured and so scared that they did it as they had no other choice ... That's what I was scared of."

There is also anecdotal evidence to support widespread discrimination in the private sector, with many lesbians reporting harassment, bullying, intimidation and ostracism in their workplaces when their sexuality has become known or is suspected. One lesbian in Ulaanbaatar said she had lost her job in 2007 when her employer learnt of her sexuality. “I had a good working relationship with my boss and my colleagues, and always had positive feedback. Then one day, about six months after starting there, my boss called me in. She looked at me like she was disgusted and said my services were no longer needed. I was very upset as I could not understand why I was being fired. I had done nothing wrong. Then I realised someone had told her about my sexuality, a fact that was confirmed a little while later when the same organisation treated my partner, who had done some work for them, with derision and contempt. My work choices now have become somewhat limited as I do not want to hide my sexuality or my relationship, and word has gotten around.”

Another lesbian in Ulaanbaatar was forced to quit her job in 2006 after a friend she had come out to revealed her sexuality to her employer. “My boss started attacking me about my personal life and used abusive language towards me. I tried to let it go, and I tried my best. She was always needling me: ‘You’re not married, I know about you. If a woman doesn’t get married and have children, you know what kind of a woman they become’. My friends used to come to see me at work, and then just as we would be having some meal as a team, my boss would say, ‘How come men don’t come to see you? It’s all women, and that, too, women of your style’. So I quit. I was really hurt by what my friend did to me. It went on for a year-and-a-half. I started working for another organisation, and of course, who would I trust? The new workplace has strict rules, is very oppressive and, of course, as I had been discriminated against before, I just couldn’t be myself any more.”

Another Ulaanbaatar lesbian reported frequent verbal harassment and offensive remarks from colleagues in a number of jobs that included employment with international organisations and women’s rights NGOs in Mongolia, whereby she was alienated to such an extent that she quit her jobs rather than undergo explicit verbal abuse or implicit offensive behaviour from her colleagues on a daily basis.

Another lesbian in Ulaanbaatar said: “When I am at work, sometimes, in front of me, they say that homosexuals are sick ... They say such things even when they know my life.”

We consider it unacceptable that State institutions and private-sector organisations are actively engaged in the overt violation of LGBT persons’ human rights.

#### Recommendation:

We therefore recommend that the Government of Mongolia:

- In relation to Article 2d, in view of the fact that sexuality minorities in Mongolia are persecuted, that many homosexuals are threatened with arrest, are arrested, arbitrarily detained and even tortured on police premises without legal grounds, affirm that these acts constitute grave human and civil rights violations, and undertake measures to end these activities.
- In relation to Article 2d, regularly conduct human rights and civil rights trainings for police on the rights of sexuality minorities, and conduct trainings and seminars on international human rights standards for the judiciary and lawyers in view of implementing the right to seek recourse through judicial structures if the rights and

liberties of sexuality minorities that are guaranteed by international law are infringed upon either by individuals or by the State.

- In relation to Articles 2d and 2e, guarantee non-discrimination based on sexual orientation in the workplace, including both private and public institutions, and ensure that the government and the private sector develop codes of conduct regarding sexuality minorities that translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.
- In relation to Articles 2d and 2e, make concerted efforts towards the guarantee, protection and implementation of human rights in accordance with Article 10 (2) of the Constitution of Mongolia, “Mongolia shall fulfil in good faith its obligations under international treaties to which it is a party”, and Article 10 (3) of the Constitution of Mongolia, “the international treaties to which Mongolia is a party shall become effective as domestic legislation upon the entry into force of the laws or on their ratification or accession”.

#### **Article 5a:**

There is widespread intolerance of LBT persons throughout Mongolian society on the basis that they do not conform to set notions of female gender identity, and who as a result are subjected to a range of human rights violations, including harassment, physical violence, hate crimes and sexual assaults. Familial violence – physical and psychological (threats, taunts, ostracism) – is the most common form of violence facing LBT persons in Mongolia, generally occurring when a person’s sexuality or gender identity has become known or is suspected. One lesbian in Ulaanbaatar said she had recently started a relationship with a woman with whom she worked. Not wanting to hide the nature of their relationship, her partner told her immediate family. While most of the family were eventually accepting, one family member was not. Since the disclosure, she has received repeated death threats from that person. “This person rings me and tells me that they will get me when I am outside,” she said.

Another lesbian in Ulaanbaatar said: “Last year there was a girl whose family found out about her and now she is constantly beaten up. Her parents really beat her up something awful. Every time I see her, she’s covered in bruises and welts. Both of her parents beat her. She’s now 20, and it’s been going on for about a year. It’s very difficult to look at her with all the signs of beating, with welts from being belted, with huge hand imprints on her face. It’s not only her; there are other girls who are in the same boat. If their parents find out, they are made to leave their homes, they are beaten, everything is done to them, and they just have to go and stay with friends or relatives, or they go to the countryside. Usually those girls are aged between 20 and 26, and all are mostly homeless. It’s those young girls who are suffering most. I’ve seen a lot of such things.”

Another woman interviewed in Ulaanbaatar said that when told her mother in 1998 that she was a lesbian, her mother said she was “better off dead”.

Mongolian lesbians live in fear of being attacked for their sexuality, and hence the majority choose to hide their sexual orientation or gender identity. One Ulaanbaatar lesbian said: “I am scared to hold hands with my girlfriend in the street. People who pass us by say, ‘Is that a man or a woman?’ Or there are lots of guys who say, ‘Look at this upstart, hey. I’ll kill you!’, when you simply pass them. Lots of unpleasant things happen ... I am always full of fear, whatever I am doing, outside home ... I just want to live without fear. The most important thing for me is to live without fear of violence from anyone.”

The deeply rooted prejudice against LBT persons also impacts on their ability to live wherever they choose, and to live together in relationships with their partners. There is anecdotal evidence to suggest that LBT persons are discriminated against in the housing sector and are denied housing or evicted if it is suspected they are from the LBT community or are cohabiting with their partners. If lesbians do choose to cohabit, they do so under the pretext of being friends or relatives.

One lesbian in Ulaanbaatar who has chosen not to live with her partner said: “If I live with a woman, society would be very puzzled. My family would be, her family would be. It’s very difficult to live in Mongolia as a lesbian couple.”

Another lesbian said she and her partner, who had rented an apartment together in Ulaanbaatar on the basis that they were cousins, were evicted without notice when the landlord let himself into the apartment early one morning and found the two of them sleeping together in one bed.

A lesbian couple currently living together in Ulaanbaatar said they lived in constant fear that the nature of their relationship would be disclosed and they would be forced on to the streets. “We can’t be ourselves even in our own home. We have to watch what we say in case our neighbours overhear us. We have to hide all photos of ourselves as a couple and all our lesbian literature whenever the landlady comes around. We have to make up a spare bed to look as if one of us sleeps in it. We rarely have our lesbians friends come around in case people in the building become suspicious. It is a precarious existence, and we always live in fear that someone will find out.”

In general there is much misunderstanding and ignorance about homosexuality and transgenderism, and as a result much stigmatisation of LBT persons. The media is largely responsible for fuelling society’s ongoing prejudices against the LBT community, with a proliferation of sensational and highly prejudicial reporting laced with derogatory and inflammatory language and homophobic rhetoric.

One Ulaanbaatar lesbian who works in the media said: “It is obvious that the journalists are very lopsided. Same-sex orientation is understood as a perversion, and that’s that; they don’t go beyond that notion and don’t do any research ... They don’t try to look into the human rights of such people or the legal environment. Journalists are only thinking of how best to out these people to others and how to project them from a negative point of view. They are ignorant and don’t do their research.”

We consider that the Government of Mongolia has an inherent responsibility under Article 5a to ensure that the entrenched societal prejudices against LBT persons as displayed by members of the community, including the media, which have led to numerous human rights violations be eliminated to ensure the safety of the LBT community.

#### Recommendation:

We therefore recommend that the Government of Mongolia:

- In collaboration with and through the community, promote a supportive and enabling environment for sexuality minorities by addressing underlying prejudices and inequalities through community dialogue and specially designed social services and support for sexuality minorities.

- Promote the widespread and ongoing distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatisation against sexuality minorities to understanding and acceptance.

### **Article 10c**

We contend that the culturally pervasive notion of heteronormativity is implicit in the State education system, which serves to reinforce ignorance of LBT persons and stereotypical perceptions of the LBT community and a lack of understanding of their fundamental human rights. With the exception of the Sexual and Reproductive Health Secondary School subject textbook, in which the lives of three gay people are outlined, the secondary education curriculum does not carry comprehensive information regarding sexual orientation.

#### Recommendation:

We therefore recommend that the Government of Mongolia:

- Revise education materials to reflect a diverse and non-heteronormative view of Mongolian society to ensure greater understanding and acceptance of LBT persons.
- Reflect legal and social issues pertaining to sexuality minorities' human rights in the education and research curricula based on domestic and international developments and literature and studies.

### **Article 12.1**

The experiences of LBT persons in Mongolia illustrates that there is a lack of understanding of alternative sexualities among health care providers in Mongolia and a lack of understanding of the attendant physical and psychological problems the LBT community face as a result of sexuality-related trauma. Many lesbians said they feared that the disclosure of their sexuality to health service providers would lead to ridicule, outright dismissal, a denial of services or further reporting of their sexuality to other government authorities. Others reported widespread ignorance within the health sector.

One lesbian in Ulaanbaatar said: “Gynaecologists always ask if you’re married; if not, they say, how do you take care of your biological needs, and say that you do need sex; that you’re over 30; that it’s dangerous because of a lack of hormones ... There are such unpleasant moments, but I just have to think of a way to get out of such questions.”

Another Ulaanbaatar lesbian said: “The woman I loved and lived with for six years had some pain in her breasts pretty constantly, so she went for a number of check-ups, and every time the doctor told her to have sex. Obviously it was meant to be sex with men; they wouldn’t have imagined that the woman might have been a lesbian.”

Anecdotal evidence also indicates a high suicide rate among the LBT community, particularly among LBT youth, that is generally related to confusion about sexuality and ostracism on the basis of sexuality and/or gender identity. The problem is compounded by a lack of counselling services for LBT persons, meaning there is no psychological support for at-risk community members.

The lack of understanding of the realities of life for the LBT community, the heteronormative framework of the health sector and the lack of information within the sector itself in relation to

the physical and psychological wellbeing of LBT persons results in LBT persons being denied access to complete medical care.

Recommendation:

We therefore recommend that the Government of Mongolia:

- Provide ongoing training for healthcare providers on the health issues, both physical and psychological, that pertain to sexuality minorities.
- Provide counselling services specifically for LBT persons.

**General Recommendation 19 – Violence Against Women**

We contend that there is sufficient anecdotal evidence to suggest that sexual violence against LBT persons in Mongolia is commonplace when their sexuality has become known or is suspected, and that the Government of Mongolia has consistently failed to protect or provide protection mechanisms for those at risk, which constitutes discriminatory treatment and a violation of the Government’s obligation to ensure that all women, without exclusion, are afforded equal protection against gender-based violence.

In the cases we recorded in relation to sexual violence, one Ulaanbaatar lesbian told of being raped by two men after the funeral of her girlfriend in 2001, who had committed suicide. One of the assailants was her partner’s ex-boyfriend. “I went drinking with that guy after the funeral,” she said. “He was just driving around in his car and he finally picked up a guy ... and he drove to the Gurvaljingiin bridge, where it was very much deserted at that time. It was getting quite late, and we were sitting and drinking vodka. Then that guy said ‘They say your right hand is very strong?’ and he bound my hands, broke a vodka bottle and stabbed the broken bottle into my right hand. He said, ‘So you can love women better than a man can? So you can take care of women, make them orgasm better than a man?’ And then he said to the other guy to sleep with me. The other guy did sleep with me. He raped me. I did not have the right to refuse.”

Another lesbian in Ulaanbaatar reported being raped on three separate occasions in the past decade which, coupled with the ostracism she was enduring in her workplace and the loss of a child conceived during one of the sexual assaults, led her to suffer extreme depression. “Keeping all those horrible things that happened to me to myself was difficult, I just ended up really depressed and stressed out ... Being raped is a huge psychological trauma, and when one’s attacked all the time, you just can’t go on, you are extremely vulnerable.”

Fear of retributive violence and secondary harassment by police and health service providers prevented these women from formally reporting the assaults.

CEDAW General Recommendation 19 states that: “...Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”

Recommendation:

We therefore recommend that the Government of Mongolia:

- Ensure through legislation equal protection for LBT persons who are victims of sexual violence.
- Provide training for the legal and health sectors on the prevalence of sexual violence against LBT persons and their obligation to uphold non-discriminatory and inclusive practices, including the preservation of dignity and confidentiality, in their dealings with LBT sexual-abuse victims.