**The Status of Lesbian, Bisexual Women and Transgender Persons in Mongolia**

Shadow report for the 63rd CEDAW Session

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Prepared and submitted by

*The LGBT Centre (Mongolia)*

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**1. About the LGBT Centre**

The LGBT Centre is the first and only non-governmental, non-profit and non-partisan organisation working to secure, promote and safeguard the civil, political, economic, cultural and social rights of the lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Mongolia. The Centre obtained its official, non-governmental organisation status in December 2009 after almost three years of fight for legal registration. As an informal network of concerned people from civil society organisations and the public, two of its co-founders submitted a shadow report on the status of LBT people in Mongolia to CEDAW in 2008 under the *Coalition of Mongolian LGBT Rights Activists*. Since its official registration, the LGBT Centre has been working consistently and successfully on raising awareness on the situation of sexuality minorities and legal changes necessary to ensure LGBTI people’s full access to all human rights, engaging in domestic and international advocacy platforms to facilitate legislative and policy changes to protect the rights of LGBTI people, and contributing towards ending the widespread social and institutional discrimination against and persecution of the LGBTI people in Mongolia.

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**2. Executive Summary**

There is widespread societal and institutional discrimination against, and intolerance of, lesbian and bisexual women and transgender 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 through omission from engaging in meaningful interaction with the Government on programming and policymaking in relation to sexuality minorities as a result of the discrimination and stigmatisation, 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 LGBT Centre believes the Government of Mongolia has acted in contravention of the spirit of the 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 request the Committee to recommend the following to the Government of Mongolia in relation to its obligations under the 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 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.
* To enact amendments to the relevant healthcare laws to ensure culturally competent and needs-based services are provided to all LBT people (including assisted reproductive healthcare services and transition-related healthcare services).
* 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 or gender identity and expression 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 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.
* 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.
* Provide ongoing training for healthcare providers on the health issues, both physical and psychological, that pertain to sexuality minorities.
* Improve the mental healthcare systems and structures to provide professional and ethical counselling services, and especially for LBT persons.
* 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.

**3. Preparation of the Report**

The present report encompasses the situation of *lesbian and bisexual women as well as transgender persons, both transgender men and transgender women* in Mongolia, since transgender boys and men face violence and discrimination because of their ***birth sex***, whereas transgender girls and women face violence and discrimination because of their ***gender identity and expression***.

The evidence of discrimination and violence against lesbian and bisexual women and transgender persons (henceforth referred to as LBT persons) in Mongolia presented in this report is largely based on the periodic focus group discussions conducted by the LGBT Centre as well as the documentations of human rights violations for which the community members have approached the LGBT Centre. Because of the institutionalisation of intolerance and discrimination against LBT persons (all levels of government, police, 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 or other public bodies, such as hospitals and clinics, they come in contact with.

The report/research methodology is qualitative, based on one-on-one interviews with LBT community members and periodic focus group discussions with the community members, namely, LBT Focus group discussion held on 28 March 2015 by the LGBT Centre and the Health Thematic Workshop on 7 November 2015 during the LGBT Forum co-organised by the LGBT Centre. 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. There is little in the way of exhaustive, comprehensive documented evidence to support the negative experiences of Mongolia’s LBT persons, largely due to the fact that LBT persons choose not to report various instances of hate and violence they suffer because of their sexual orientation or gender identity, with the LGBT Centre’s documentation not being fully representative due to the fact that fear and secrecy are still a reality of many community members. 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 or unwilling to report crimes or instances of discrimination against them as they are often fearful of secondary victimisation when they disclose the grounds on which they were attacked, or discriminated against.

**4. Mongolia’s International Obligations, Domestic Legal and Policy Frameworks in Relation to LBT Persons**

The LGBT Centre advocated for and obtained the following LGBTI-specific recommendations from various expert and multilateral bodies: 8 recommendations from the Universal Periodic Review (UPR) of Mongolia under the UN Human Rights Council in 2010, 17 recommendations from the UPR of Mongolia under the UN Human Rights Council in 2015, 2 recommendations from the UN Committee Against Torture in 2010, 2 recommendations from the UN Human Rights Committee in 2011, and 3 recommendations from the UN Committee on Economic, Social and Cultural Rights in 2015.

Pursuant to the international obligations undertaken by the Government of Mongolia in regard to the LGBTI people in Mongolia, the Parliament of Mongolia passed an historic new Criminal Code as well as the Law on Misdemeanour in December 2015 that criminalise hate crimes (defined as crimes of discrimination in the new Criminal Code) and that enumerate sexual orientation and gender identity as protected grounds, going above and beyond the Constitution of Mongolia that still does not provide equal protection to all regardless of sexual orientation and gender identity.

The LGBT Centre applauds the Government of Mongolia for including a 2008 amendment in the Law on Civil Registration that allows for a relatively simple procedure to change the gender marker for transgender persons (section 20.1) should they wish so.

The LGBT Centre applauds the Government of Mongolia for instituting the National Gender Equality Commission of Mongolia; however, neither the structure, mandate and functions of the National Gender Equality Commission, nor the Law on the National Gender Equality Commission encompass inclusive definition of gender, or gender-based violence that would’ve ensured LBT persons are covered.

The LGBT Centre applauds the Government of Mongolia for passing a Government Resolution number 159 on 18 May 2011 to implement the UPR recommendations from 2010 review; however, no moves have been made by the Government of Mongolia to address and end discrimination on the basis of sexual orientation and gender identity and expression apart from passing the new Criminal Code that outlaws hate crimes.

The LGBT Centre applauds the Legal Standing Committee of the Parliament of Mongolia for passing a Resolution 13 on 13 July 2013 that delegated the Government of Mongolia to undertake implementation of all LGBT rights-related recommendations enumerated by the National Human Rights Commission of Mongolia’s 12th periodic report’s chapter that dealt with the human rights situation of the LGBT people in Mongolia. However, the Government of Mongolia has not undertaken any substantive moves to address and end discrimination on the basis of sexual orientation and gender identity and expression in all its functions, policies and regulations.

Despite the growing recognition by the Government of Mongolia of various inequalities, inequities and discrimination faced by the LGBTI people in their daily lives, it is unfortunate that all other recommendations to provide for equal protection to all regardless of sexual orientation or gender identity through all necessary legislative, administrative and budgeting efforts remain unfulfilled, the gap and institutionalised discrimination especially adversely affecting the LBT persons in Mongolia. Because of the lack of efforts to faithfully fulfil its obligations under both domestic and international law, the LBT persons in Mongolia continue to suffer when trying to access culturally competent and needs-based services in the healthcare (lesbian and bisexual women are still advised to have intimate relations with men by the medical practitioners in private and public hospitals in order to offset “hormonal imbalance” when lesbian and bisexual women respond that they are not married or have no boyfriends[[1]](#footnote-2), and are provided no appropriate sexual and reproductive services counselling when trying to access assisted reproductive services to parent offspring together[[2]](#footnote-3)), when accessing culturally competent and inclusive education (no education curricula from pre-school to tertiary level reflect the diversity of the society, with the LGBTI realities being completely omitted from any and all education materials and cirricula, perpetuating hetero- and cis-normative relationships, leading to still widely held beliefs and attitudes marginalising and discriminating LGBTI people).

Furthermore, despite many substantive recommendations provided by various expert bodies and multilateral platforms from 2010 onwards to pass a broad-based, comprehensive anti-discrimination legislation and/or amend the Constitution of Mongolia to comprehensively prohibit discrimination on the grounds of, *inter alia*, sexual orientation and gender identity, and to ensure procedurally and substantively that LGBTI people have full access to all human rights without discrimination, no such efforts have been undertaken by the Government of Mongolia, with the realities of LBT people remaining dismal as periodic focus group discussions and other participatory researches by the LGBT Centre have demonstrated.

**5. General Situational Analysis of LBT persons in Mongolia**

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[[3]](#footnote-4), 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.

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. 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.

There is no mention in the 1992 Constitution of Mongolia regarding non-discrimination based on sexual orientation or gender identity, even though Mongolia is a party to all major UN human rights conventions and covenants, among which are provisions specifically covering non-discrimination based on ‘other status’ deemed to include sexual orientation. In terms of broader education, with the exception of the Sexual and Reproductive Health Secondary School subject (made an elective class from 2015, which poses further problems as there is no mandatory class that deals with sexuality education throughout the complete secondary education system) textbook, in which the lives of three gay people are described, the secondary education curriculum does not carry any comprehensive information regarding sexual orientation or gender identity and expression, which further normalises the idea of heteronormativity. There is no mention of gender identity and expression in any of the secondary education curricula or materials.

With the developing human rights movement for LGBTI rights, there is a lot more awareness in the general society about sexuality minorities compared to the early democratisation period of the 90s. However, 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 as well as improving media reporting around LGBT issues such as positive coverage of Equality & Pride Days held from 2013 onwards, there is now increased awareness and acceptance in Mongolia about the LGBTI people’s human rights and the fundamentality of one’s sexual orientation and gender identity and expression. The challenge now is to incorporate those rights into the Government of Mongolia’s political discourse and its international human rights obligations.

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[[4]](#footnote-5);
* Suicides/attempted suicides and chronic depression among LBT persons[[5]](#footnote-6);
* Legal and social invisibility and subsequent marginalisation;
* The denial of the fundamental human right to one’s sexual orientation and gender identity;
* 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.

The participants in the LBT Focus group discussion (16 persons) held by the LGBT Centre on 28 March 2015 and the Health Thematic Workshop (18 persons) facilitated by the LGBT Centre during the LGBT Forum - 2015 on 7 November 2015 identified the following general issues as most pertinent and faced frequently:

* 1. Medical professionals, specifically gynaecologists, are unable to provide needs-based and culturally competent services to LBT persons;
	2. Intake and registration forms of women’s clinics and gynaecological clinics only envisage heterosexuality and cisgenderism, alienating LB women and transgender men;
	3. Medical professionals are unaware of the specific health needs of LBT persons and are lacking knowledge and skills to provide for such needs;
	4. Medical professionals often refuse to provide assisted reproductive services (artificial insemination) to either single lesbians or women in same-sex relationships;
	5. There is no state-funded or state-run assisted reproductive services (sperm banks, artificial insemination clinics) that can be used by women in same-sex relationships and who desire to start a family;
	6. Medical professionals are unable to provide transition-related services to transgender persons, including endocrinology-related services and hormone replacement therapy, and gender-conformation surgeries (all known transgender women and men in Mongolia had to obtain any gender conformation surgery outside Mongolia);
	7. Social, familial and collegial pressure for marriage despite the knowledge of the person being LBT;
	8. Denial of rental (there is no state housing) housing to female couples who are found to be in a same-sex relationship by private landlords and landladies;

The following economic rights were found to be have been encroached upon most frequently in the case of LBT persons in Mongolia:

* 1. Inability to come out LBT due to financial dependence from parents and family members (especially in the case of adolescent and young adult LBT persons);
	2. Vicious rumours and maligning of LBT persons at the place of employment if their sexual orientation or gender identity are revealed, found out or presumed, leading to LBT persons leaving their employment;
	3. No opportunities to advance at their place of employment once their sexual orientation or gender identity are revealed, found out or presumed;
	4. Inability to be openly oneself affects productivity of LBT persons when employed;
	5. Outright discrimination against LBT persons from employment interview onward due to their haircuts or choice of clothing, with LBT persons never employed if they showed up in the choice of their clothing or other expression.

The following social and cultural rights were found to have been encroached upon most frequently in the case of LBT persons in Mongolia:

* 1. Extreme negative attitudes against LBT persons due to their haircuts or choice of clothing in their daily lives;
	2. Inability to name their child under both the same-sex parents’ names when women in same-sex relationships succeed in giving birth to their children;
	3. Being precluded from articulating LGBT-rights issues, or being immediately discriminated against when articulating such concerns when participating in youth fora and platforms at their education institutions;
	4. Inability to fully express themselves, their sexual orientation or gender identity due to prevailing and rigid notions of gender and gender identities;
	5. No culturally competent healthcare services are offered at healthcare institutions starting from household clinic to national hospitals especially around assisted reproductive health and transition-related healthcare services;
	6. Discrimination in all spheres of their social interaction, education and employment, some resulting in physical and sexual harm (including workplace sexual harassment when colleagues find out or presume sexual orientation or gender identity of the LBT person);
	7. No cultural, educational spaces to articulate their concerns except for the events by the LGBT Centre;
	8. No public information, education or cultural channels of mass media are dedicated to covering LGBTI issues, or are designed in a rights-based form mainstreaming LGBTI rights, and thus continued cultural and social invisibility and marginalisation.

To sum up, Mongolia – a country of 3 million people – theoretically has 300,000 LGBTI people. 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 the CEDAW – in particular, as detailed below, Articles 1, 2a, 2b, 2c, 2d, 2e, 5a, 10c, 12.1 and General Recommendation 19.

**6. The Status of Mongolia’s LBTPersons under Specific CEDAW Articles**

**Article 1:**

The LGBT Centre 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 and transgender persons on the basis of their sexuality, birth sex and/or gender identity and expression. 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 request the Committee to recommend the Government of Mongolia recognise the human rights violations taking place against the LBT people 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. There are no presently 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, healthcare or education services providers or of unwanted media attention and the resulting possibility of harm from others should their cases become public knowledge.

Recommendation:

We therefore request the Committee to recommend the following to the Government of Mongolia:

* In relation to Article 2a, revise the Constitution of Mongolia to include non-discrimination on the basis of sexual orientation and gender identity 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 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.
* To enact amendments to the relevant healthcare laws to ensure culturally competent and needs-based services are provided to all LBT people (including assisted reproductive healthcare services and transition-related healthcare services).

**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.

The LGBT Centre has conducted a number of documentations during 2009 and 2016, whereby the individuals were attacked because of their sexual orientation or gender identity. Furthermore, the LGBT Centre has been denied a number of times access to public space by the Metropolitan Government of Ulaanbaatar city in 2015 in August 2015 during the Equality & Pride Days when the Centre wanted to hold the opening event of the Equality & Pride Days on the main square of Ulaanbaatar city, Chinggis Square, on 28 August 2015. Furthermore, the LGBT Centre was also denied an entry into the Chinggis Square on 29 August 2015 when over 30 walkers for equality were physically prevented by the Sukhbaatar and Chingeltei police personnel from entering the Chinggis Square, with the police flagrantly encroaching upon and violating the walkers’ right to freedom of association, freedom to be free of discrimination and freedom to express one’s opinion without the fear of retribution. Following these abuses, the LGBT Centre filed an administrative case with the Administrative Court of Mongolia that LGBTI persons were discriminated against on the basis of their sexual orientation and/or gender identity and expression and precluded from utilising the public spaces; however, the first instance Administrative Court moved to dismiss the case against the Metropolitan Government of Ulaanbaatar and the Metropolitan Police Department on 10 December 2015 because the judge chose not to consider the case in its entirety, denying the right to access justice to the LGBT Centre and the LGBTI community by failing to apply the international standards under all major international treaties, including the International Covenant on Civil and Political Rights in relation to the right to be free from discrimination and the freedom of association and expression. The Centre is still awaiting the delivery of the court decision to appeal the case.

Three transgender women approached the LGBT Centre to obtain legal counselling in 2014 and 2015. Two of the transgender women were arbitrarily detained by the police in March 2014 for “being outdoors at a certain location known to be a ground for sex workers”, and presumed to be sex workers. They were detained and prosecuted as sex workers and one was imposed an imprisonment of 21 days of community service for a presumed sex work. Another transgender woman was treated with extreme indignity in April 2015 by a female police officer when the transgender woman went to the police station to seek recourse for violence she suffered. The female police officer pulled the transgender woman’s hair asking “What are you? Is your hair real?”. The transgender woman subsequently filed a complaint with the National Human Rights Commission of Mongolia which mandated LGBTI rights training to be held at all police stations; however, the trainings were done in an incomplete way, and no follow-ups were conducted to ensure the police personnel are fully trained to respect the LGBTI people.

One transgender man, himself an LGBTI-rights activist, was beaten by the police while in custody in October 2014 for daring to speak up when he was brought in unjustly from Hanzo, the only LGBT club in Ulaanbaatar at the time for “unruly behaviour” against the police officer (the transgender man asked the police officer why the music was off). He chose not to report the case as he was fearful of the retribution by the police because the police took down his residential address and all other details.

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 anymore.”

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 LBT persons’ human rights.

Recommendation:

We therefore request the Committee to recommend the following to the Government of Mongolia:

* In relation to Article 2d, in view of the fact that sexuality minorities in Mongolia are persecuted and even violated 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 domestic and international laws 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.”

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 and transphobic 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 request the Committee to recommend the following to 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, and no information on gender identity and expression. The complete secondary education curricula and textbooks are heteronormative and cisnomative, creating and perpetuating stereotypes harmful to the diversity of the society.

Recommendation:

We therefore request the Committee to recommend the following to the Government of Mongolia:

* Revise education materials to reflect a diverse and non-heteronormative and non-cisnormative 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 and cisnormative 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 request the Committee to recommend the following to 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 or gender identity and expression have become known or 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 request the Committee to recommend the following to 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.
1. Unscientific and heteronormative attitudes of gynaecologists and medical doctors perpetuating commonly-held public myths were identified as one of the major barriers in accessing quality healthcare by the participants in the LBT focus group discussion held by the LGBT Centre, 28 March 2015 as well as Health Thematic Workshop facilitated by the LGBT Centre on 7 November 2015 during the LGBT Forum co-organised by the LGBT Centre. [↑](#footnote-ref-2)
2. Barriers in accessing quality healthcare, participants in the LBT focus group discussion held by the LGBT Centre, 28 March 2015 as well as Health Thematic Workshop facilitated by the LGBT Centre on 7 November 2015 during the LGBT Forum co-organised by the LGBT Centre. [↑](#footnote-ref-3)
3. 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, Tsedendamba (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. [↑](#footnote-ref-4)
4. 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>. 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. [↑](#footnote-ref-5)
5. Many reports are made in the media about double suicides often involving two adolescent children below the age of 18 years old, with the latest being a double suicide of a 14 and 15 year-old girls in Ulaanbaatar city on 5 January 2016. There are all indications to believe such double suicides are often committed because of the sexual orientation or gender identity of the suicides, and hardships experienced due to their sexual orientation or gender identity and expression. [↑](#footnote-ref-6)