MONGOLIA

1. Discriminatory family code

Family law in Mongolia provides for marriages based on free consent, enshrines equality in family affairs, and establishes 18 years as the minimum legal age of marriage for both men and women.\(^1\) The United Nations reports, based on 2000 data, that 3.6% of girls between 15 and 19 years of age were married, divorced or widowed, compared to 1.3% of boys in the same age range. In 1979, 15% of girls aged between 15 and 19 were married, divorced or widowed, which indicates that societal acceptance of early marriage has declined in recent decades.\(^2\) The mean age of marriage for women is 24.\(^3\)

Mongolia’s 1992 Family Law provides for equal parental authority and spousal rights.\(^4\) In practice, the responsibility of family and childcare falls almost exclusively on women. World Bank data from 2013 has found that women spend roughly twice the amount of time as men on household and care duties, which does not decline even when they are engaged in paid productive work in the labour market.\(^5\) In 2005, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern that women bear a disproportionate burden of family responsibility, particularly in the context of the government’s policy on population growth, which encourages larger families.\(^6\)

Divorced women may secure maintenance payments under the Family Law, which details the rights and responsibilities of each spouse regarding alimony and parenting. It is reported that, in a majority of cases, the divorced wife retains custody of any children, while divorced husbands often fail to pay child support, often without penalty.\(^7\)

Under the Civil Code, women and men also have equal legal rights in the area of inheritance of moveable and immovable property.\(^8\) There is no available information on how inheritance works in practice.

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Increasing rural to urban migration has also led to a significant increase in the number of female-headed households in urban areas of Mongolia. The percentage of female-headed

\(^1\) Constitution of Mongolia, Art. 16(11)
\(^2\) UN (2012)
\(^3\) World Economic Forum (2014)
\(^4\) CEDAW (1999), p.19
\(^5\) Khan et al., p.15
\(^6\) CEDAW (2008), p.5
\(^7\) US State Department (2013)
\(^8\) Civil Code of Mongolia (2002), s 520
households has increased from 9% of total households in 1995 to 16% in 2000. The World Bank has reported that female-headed households were significantly more likely to be in financial stress than male-headed households; and were also twice as likely to have working-age male dependents.

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Either spouse may file for divorce, although the Family Law contains several weaknesses. For example, divorce is not available to women who are pregnant or have a child under the age of one; the court imposes a three-month reconciliation period between couples before granting a divorce (although the law eliminates the reconciliation period where there is a threat to life, judges do not consistently apply the clause); and the cost of filing for divorce is prohibitive for many women.

2. Restricted physical integrity

In 2005, the government introduced the Law on Fighting against Domestic Violence which specifically prohibits domestic violence, although it is not a specific offence under the criminal law. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions against offenders, including expulsion from the home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behaviour modification.

There is limited data available on the prevalence of domestic or family violence against women in Mongolia. The National Centre against Violence estimated in 2010 that one in three women had been subject to some form of domestic violence. Citing 2013 data, the US State Department reported that cases of domestic violence, as well as the number of victims seeking assistance from hospitals and NGO-run shelters, continued the upward trend of recent years.

Despite legal protections, there remain a number of significant barriers to ending domestic violence in Mongolia. In 2014 a NGO monitoring report on the Government’s implementation of the Law on Fighting against Domestic Violence found a pervasive lack of legal understanding on behalf of both victims and government actors. It also identified a number of prohibitive legal and procedural hurdles, including delays in issuing protection orders due to onerous risk assessment and forensic evidence requirements; and the absence of a specific directive on service and enforcement of restraining orders, or punishment for non-compliance. In addition they found that, in the absence of criminal domestic violence provisions, police and prosecutors rely on general criminal assault provisions, which also require expensive and invasive forensic evidence, causing significant time delays. Moreover, the report found that, due to a lack of

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9 Asian Development Bank (2005), p.10
12 US State Department (2013)
13 Advocates for Human Rights (2014)
14 US State Department (2013)
shelters, victims in Mongolia do not have access to a number of other essential social services and support, largely due to a lack of funding.\textsuperscript{15}

The prevalence of attitudes that normalise and accept violence against women is also a factor frustrating efforts to combat domestic violence. A 2010 MCIS survey found that 10\% of women aged 15-49 considers that a husband is justified in beating his wife or partner in certain circumstances.\textsuperscript{16}

The Criminal Code in Mongolia prohibits rape.\textsuperscript{17} The law provides for sentences of up to five years. If the victim is injured or is a minor, the penalty can reach 10 years. Such a crime resulting in death, or where the victim is under 14 years of age, or committed by a recidivist, may result in 15 to 25 years' imprisonment or application of the death penalty. Gang rape is punishable by death;\textsuperscript{18} although the US State Department has reported that the death penalty has been abolished in practice.\textsuperscript{19}

There is no official prevalence data on sexual violence, however the US Department of State reported that the National Police Authority received 260 reports of rape between January and September 2013, including a significant increase in the number of minor girls who were victims of rape: 54 cases in the first 10 months of the year, up from 37 cases during the same period of 2012. Additionally, the report claims that many rapes were not reported; due in part to police and judicial procedures that imposed stress on victims, as well as social stigma.\textsuperscript{20} According to NGOs, police referred only a small number of rape cases for prosecution, generally claiming there was insufficient evidence.\textsuperscript{21}

The government had not criminalised marital rape,\textsuperscript{22} although it remains a significant problem for Mongolian society. The findings of a 2008 report by the National Center against Violence revealed that 80\% of those surveyed accepted the existence of marital rape in Mongolia; and one out of every two respondents reported being a victim of a marital rape.\textsuperscript{23}

Article 4 of the 2011 Law on Promotion of Gender Equality addresses systematic sexual harassment as a form of gender discrimination. However the National Human Rights Commission has criticized the law for not including any specific sanctions for acts of violence against women and sexual harassment.\textsuperscript{24} In 2010 the US State Department cited a National Human Rights Commission survey that found that one in every two employed women under the age of 35 identified herself as a victim of workplace sexual harassment.\textsuperscript{25}

There is no evidence that female genital mutilation (FGM) is practised in Mongolia.

\textsuperscript{15} Advocated for Human Rights (2014), pp 2-4.
\textsuperscript{16} OECD (2014), \textit{Gender, Institutions and Development Database}, \url{http://stats.oecd.org}
\textsuperscript{17} Criminal Code of Mongolia (2002), Art. 126
\textsuperscript{18} US Department of State (2013)
\textsuperscript{19} US Department of State (2013)
\textsuperscript{20} Stop Violence Against Women (n.d)
\textsuperscript{21} US State Department (2013)
\textsuperscript{22} UN Women (2011), p.133
\textsuperscript{23} Stop Violence Against Women (n.d)
\textsuperscript{24} National Human Rights Commission (2013), p.19
\textsuperscript{25} US State Department (2010)
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In 2008, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the increasing incidence of trafficking and exploitation of women and girls and the low rate of prosecution. Mongolia prohibits all forms of human trafficking through Article 113 of its criminal code, which was amended to include internal trafficking, trafficking of children, and labour trafficking. However, in practice the US Department of State reports that the Government of Mongolia does not fully comply with the minimum standards for the elimination of trafficking; citing factors including corruption, and the lack of a law or policy on victim-witness protection or long-term resources for victims of trafficking.

Limitations on women’s reproductive rights also infringe upon women’s physical integrity in Mongolia. In 1989, the abortion provisions of the Criminal Code were amended. Although abortion is in general still considered a serious offence, the Code was modified to provide that becoming a mother was a matter of a woman’s own decision, and made forced abortions illegal. During the first three months of pregnancy a woman can now obtain an abortion on request and, later in pregnancy, when necessary due to illness. Abortions must be performed by physicians under hospital conditions, and the Ministry of Health approves a list of illnesses justifying the performance of an abortion on medical grounds. The abortion rate is 16.9 abortions per 1,000 women aged 15-44. United Nations data from 2008 indicates that 49.6% of married women were using a modern method of contraception, while 5.5% were using traditional methods.

3. Son bias

Mongolia has a male-to-female sex ratio at birth of 1.05 and in the working age population (15-64) it is at 1.04. There is no evidence to suggest that Mongolia is a country of concern in relation to missing women.

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Sex-disaggregated data on the rates of infant mortality and early childhood nutrition do not provide evidence of preferential treatment of sons in relation to household allocation of nutrition. Data on children’s time-use indicates that girls are slightly more likely than boys to be involved in household chores for more than 28 hours a week. The Asian Development Bank (ADB) reports that there are rural and urban differences in the burden of unpaid work amongst

26 CEDAW (2008), p.6
27 US State Department (2013b)
28 Article 127
29 Health Law of Mongolia (1998), Article 36
30 UN Department of Economic and Social Affairs (2013)
31 UN (2012b)
32 CIA (2014)
33 UNICEF (2010)
34 UNICEF (2010)
boys and girls. Teenage urban males spent fewer than 17 hours on non-economic activities, and their rural counterparts spent fewer than 18 hours. Girls from the same age group, on the other hand, spent 21 hours in urban areas and up to 30 hours in rural areas on household tasks. This suggests that girls bear the burden on unpaid work in the family.\(^{35}\) With respect to access to education, the World Economic Forum (WEF) reports that Mongolia has reached gender parity or near parity in primary, secondary and tertiary education enrolments, which suggests that there is no preferential treatment of sons with respect to education.\(^{36}\)

4. **Restricted resources and assets**

Under the 2002 Law on Land, women and men may have equal rights to access to land;\(^ {37}\) and Article 16 of the Constitution enshrines the equal right to fair acquisition, possession and inheritance of movable and immovable property. However, analysis by the Asian Development Bank shows that government regulations do not proactively support gender equality in access to, or control over, newly allocated land. For example, when registering land, the names of all adult household members must appear on the title, but an individual can waive this right. This raises concerns that land allotment may follow the trend of previous phases of privatisation — in which 46% of the properties (mostly rural livestock and urban housing) were allocated solely to male heads of households.\(^ {38}\) This suggests that discriminatory attitudes, based on traditional stereotypes of the male as the household head are limiting women’s access to land. As a result, despite the legal requirement for joint titling of land, the vast majority of land in Mongolia is held by men, which has been attributed to women’s lack of legal literacy and understanding about their rights to land and other natural resources.\(^ {39}\)

With respect to non-land assets, there are no reported legal restrictions on women’s equal access. However, in 2007, the government reported that women had not benefited equally from the privatization of property associated with economic transition. The government reported that in 2007, 46% of privatized properties such as apartments and livestock were registered only in the name of the husband and 30.5% is jointly by husband and wife, with only 16% in the name of wife.\(^ {40}\)

There are no reported legal restrictions on women’s access to financial services, including credit and bank loans. The Asian Development Bank (ADB) reported that women’s share of the XAS Bank’s small business loans was 57% in 2003 and 54% in the first quarter of 2004.\(^ {41}\) However, women are reported to experience barriers in accessing credit due to a lack of collateral.\(^ {42}\) According to the World Bank, 82% of women have an account at a financial institution,

\(^{35}\) Asian Development Bank (2005), p.13  
\(^{36}\) World Economic Forum (2013)  
\(^{37}\) Asian Development Bank (2005), p.28  
\(^{38}\) Asian Development Bank (2005), p.28  
\(^{39}\) USAID (n.d)  
\(^{40}\) CEDAW (2007), p.32  
\(^{41}\) Asian Development Bank (2005), p.26  
\(^{42}\) Asian Development Bank (2005), p.26
compared with 73% of men; while 43% of women have taken out a loan in the year 2010 to 2011, as opposed to 49% of men.\textsuperscript{43}

5. **Restricted civil liberties**

There are no reported legal restrictions on women’s freedom of access to public space in Mongolia. However, as described in the Physical Integrity section, the threat of trafficking and domestic violence impinges on women’s freedom of movement.

In 2007, the government reported that women’s non-governmental organisations played an important role in public advocacy to set the scene for the new domestic violence legislation.\textsuperscript{44} This suggests that women’s organisations in Mongolia are politically active and have a voice in government decision-making.

With respect to women’s participation in political life, representation in decision-making roles is very poor in Mongolia. Following the 2012 elections, women make up only 14% of Mongolia’s parliamentarians; and in 2010 UNDP reported that 20% of Ministerial positions were held by women.\textsuperscript{45} The 2011 Promotion of Gender Equality Act provides for a 40% quota on women’s participation in managerial positions across the public administration, with the aim of reversing male dominance in high-level decision-making positions with higher pay.\textsuperscript{46} According to Article 27.2 of the 2011 Law on Election of the Parliament, at least 20% of candidates on a unified list presented by a political party for both types of contests (majority and proportional) shall be women. There is also a 30% women quota for the local council elections.\textsuperscript{47}

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While the Labour Law in Mongolia generally provides women and men equal rights in the area of employment,\textsuperscript{48} it contains a discriminatory provision which prohibits women from freely choosing their employment based on an outdated list of hazardous occupations from which women are excluded.\textsuperscript{49}

Under the Labour Law, women in Mongolia are entitled to 90 days of paid maternity leave at their normal salary; or 50% of their salary for an additional 30 days.\textsuperscript{50} Under the Social Security Decree, a woman is entitled to childbirth benefits equal to 70% of the insured earnings for a maximum period of 3 months. If, after 3 months, the woman cannot return to work due to a medical reason, she shall be entitled to payment of 50% of her salary or wages for at least 30 additional days by her employer and, thereafter, to an amount equivalent to 60% of the insured earnings.\textsuperscript{51}

\begin{itemize}
\item \textsuperscript{43} World Bank (2014)
\item \textsuperscript{44} CEDAW (2007), p.6
\item \textsuperscript{45} UNDP (2010), Table 16
\item \textsuperscript{46} CEDAW (2011), follow up report
\item \textsuperscript{47} The Quota Project (2014), Mongolia
\item \textsuperscript{48} CEDAW (2007) p.28
\item \textsuperscript{49} CEDAW (2008) p.7
\item \textsuperscript{50} Labour Law 2006, Art. 39
\item \textsuperscript{51} Decree regarding the Social Security Regime for Employees in Enterprises 1999, Art. 38
\end{itemize}
Under the Constitution, women have equal rights to confer *citizenship* to their children.\textsuperscript{52}

\textsuperscript{52} Law of Mongolia on Citizenship 1995 (as amended 2002), Art. 7
Sources


CEDAW (2011), Concluding observations of the Committee on the Elimination of Discrimination against Women Mongolia Addendum Information provided in follow up to the concluding observations (CEDAW/C/MNG/CO/7), 13 December 2011, CEDAW/C/MNG/CO/7/Add.1


