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Mongolia: Domestic violence, including legislation, in particular the progress in the implementation of the 2005 law, and availability of state protection and support services (2008 - April 2010)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Sources describe domestic violence as being a "serious" concern in Mongolia (US 11 Mar. 2010, Sec. 6; Freedom House 2009; UN 7 Nov. 2008). According to the United States (US) Department of State's *Country Reports on Human Rights Practices for 2009*, women of low-income rural families are particularly vulnerable (US 11 Mar. 2010, Sec. 6). In concluding observations on Mongolia's most recent report required by the United Nations (UN) Convention on the Elimination of All Forms of Discrimination Against Women, the UN's Committee on the Elimination of Discrimination Against Women (CEDAW) expressed its concern that "the incidence of domestic violence remains high" in the country (UN 7 Nov. 2008, Para. 25). Statistics are not available on the extent of domestic abuse in the country (US 11 Mar. 2010, Sec. 6; NCAV 17 Feb. 2010). However, *Country Reports 2009* notes that according to a 2007 estimate by the National Center Against Violence (NCAV), a Mongolian non-governmental organization (NGO) that assists victims of domestic violence (About NCAV n.d.a), one in three women was a victim of some form of domestic violence (US 11 Mar. 2010, Sec. 6).

Sources report that victims are reluctant to discuss domestic violence as incidents are regarded as a private family matter (ibid.; UN 7 Nov. 2008, Para. 25). In *Freedom in the World for 2009*, international human rights monitor Freedom House notes that "social and cultural norms continue to discourage victims from reporting such crimes" (Freedom House 2009). In its November 2008 report, CEDAW also notes the "...strong stereotypical attitudes about the roles and responsibilities of women and men in family and society which persist in Mongolia..." (UN 7 Nov. 2008, Para. 23). Additionally, spousal rape is not regarded as a criminal act in Mongolia (US 11 Mar. 2010, Sec. 6; UN 7 Nov. 2008, Para. 25). According to the NCAV because law enforcement organizations do not view marital rape as a crime, victims will consequently not ask for help from law enforcement officials (NCAV 2009). Victims also do not report marital rape out of concern for the reputation of their families (ibid.).

Legislation

The Law on Fighting Against Domestic Violence was adopted in 2004 (Mongolia 13 May 2004; NCAV n.d.b) and came into force in 2005 (Mongolia 13 May 2004; UN 7 Nov. 2008, Para. 25). According to *Country Reports 2009*,

[t]he 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 behavior modification. (US 11 Mar. 2010, Sec. 6)

Several observers have criticized the law and its implementation and stated that it is insufficient (UN 7 Nov. 2008, Para. 26; NHRC 2008, 84; NCAV n.d.b, Sec. 2). According to the 2008 *Report on Human Rights and Freedoms in Mongolia* for 2007 by the National Human Rights Commission of Mongolia (NHRC), an agency established by the Mongolian government to monitor human rights in the country (NHRC n.d.), "there is a need to revise some of the provisions of the law and in particular, clearly define punishment for perpetrators" (NHRC 2008, 84). As well, observers note that Mongolia's legal and regulatory framework was not adjusted to take the 2005 law into consideration (Zanaa 2008, 23; NCAV n.d.b, Sec. 2).

State protection and support services

Sources express concern over a lack of awareness of the Law on Fighting Against Domestic Violence (UN 7 Nov. 2008, Para. 26; Zanaa 2008, 19; UN 2008, 4; NCAV n.d.b, Sec. 2). A United Nations Development Fund for Women (UN) publication notes that there is low public awareness of the law as little effort to promote it has been made since it was adopted (UN 2008, 4). In its observations, CEDAW identified a need for public officials, including members of the judiciary, law enforcement officers, social workers and health-care workers, as well as society at large, to be made more aware of the 2005 law (UN 7 Nov. 2008, Para. 26).

In particular, law enforcement officials are seen as having little knowledge of the application of the law (UN 7 Nov. 2008, Para. 26; UN 2008, 4; NCAV n.d.b, Sec. 2). NCAV reports that instead of applying the Law on Fighting against Domestic Violence, law enforcement officers usually apply the 1992 Law on Administrative Liability which governs assaults and misconduct under the influence of alcohol, neglecting the special needs of domestic violence victims (ibid.). According to NCAV, law enforcement organizations do not see domestic violence as a crime and usually do not intervene unless alcohol is involved (ibid.).

Sources differ on the rate of prosecution of domestic violence since the Law on Fighting Against Domestic Violence came into effect (Freedom House 2009; US 11 Mar. 2010, Sec. 6; UN 7 Nov. 2008, Para. 25). According to Freedom House's *Freedom in the World Report for 2009*, dozens of cases have been prosecuted since the law came into effect in 2005 (Freedom House 2009). However, other sources state that only about 20 cases have been tried in the years following the adoption of the law (US 11 Mar. 2010, Sec. 6; Zanaa 2008, 19; UN 7 Nov. 2008, Para. 25). *Country Reports 2009* specifies that a total of seven people were convicted of domestic abuse and placed under restraining orders in 2009 (US 11 Mar. 2010, Sec. 6).

According to *Country Reports for 2009*, the level of assistance required by law is rarely met by the police as they lack funds and see domestic violence as a private family issue (US 11 Mar. 2010, Sec. 6). In its November 2008 report, CEDAW also expressed concerns over the implementation of the law, especially in regard to the provision of shelters and the availability of medical and

rehabilitation services by qualified professionals (UN 7 Nov. 2008, Para. 25).

The national programme on combating domestic violence was adopted in 2007 (NCAV 17 Feb. 2010; UN 7 Nov. 2008, Para. 25). According to 17 February 2010 correspondence with a NCAV representative, the programme resulted from the desire to develop a "national mechanism" to implement the law on domestic violence and included partial funding of shelters operated by NCAV (NCAV 17 Feb. 2010). No information on the results of this programme could be found among the sources consulted by the Research Directorate.

In December 2009, according to *Country Reports 2009*, a care facility for domestic violence and rape victims was established by the government in the National Center for Trauma Treatment (US 11 Mar. 2010, Sec. 6). NCAV operates several shelters, provides counselling for victims of domestic violence and runs awareness campaigns (US 11 Mar. 2010, Sec. 6; NCAV n.d.a). NCAV's 5 shelters and 16 branches are located throughout the country (ibid.). NCAV also operates a 24-hour hotline (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Attempts to contact the Centre for Citizen's Alliance, the Gal Golomt Movement, the Mongolian Women's Federation, the Mongolian Women's Fund, the Mongolian Women Lawyers Association, the Mongolian Women's NGOs Coalition, the National CEDAW Watch Network Center and the Woman Information and Research Centre (WIRC) were unsuccessful.

Internet Sources, including: Amnesty International (AI), Asia Pacific Forum on Women, Law and Development (APWLD), Australian Refugee Review Tribunal, Centre for Asia-Pacific Initiatives, Centre for Women's Global Leadership (Rutgers University), European Country of Origin information Network (ecoi.net), Human Rights Watch, International Information Centre and Archives for the Women's Movement (IIAV), Mongolian Gender Equality Center, Office of the United Nations (UN) High Commissioner for Refugees (UNHCR) RefWorld, Organisation mondiale contre la torture (OMCT), Swiss Development Agency for Cooperation and Development (SDC) - Mongolia, United Kingdom (UK) Home Office, United Nations Development Fund for Women (UNIFEM), UN Secretary-General's Database on Violence Against Women.

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