

LAW OF MONGOLIA
ON THE LEGAL STATUS OF HUMAN RIGHTS DEFENDERS

April 02, 2021

Ulaanbaatar

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Objective of the Law

1.1 The objective of this law is to recognize, promote, respect, protect the rights of human rights defenders, provide working condition and collaborate with human rights defenders, and regulate structure, organization and operation of Committee on Human Rights Defenders

Article 2. Legislation on the Legal Status of Human Rights Defenders

2.1. Legislation on the legal status of human rights defenders shall consist of the Constitution of Mongolia¹, Law on National Human Rights Commission², this law, and other legislative acts adopted in compliance with these laws.

2.2 If an international treaty to which Mongolia is a party is inconsistent with this Law, the provisions of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. This law shall regulate the legal status of human rights defenders who are conducting human rights-protecting activities in the territory of Mongolia.

3.2. Legal status of a Mongolian citizen who protects the human rights in foreign countries shall be regulated under international treaty of Mongolia.

Article 4. Definitions

4.1. The terms used in this law shall have the following meanings:

¹ Constitution of Mongolia, published in State Bulletin No. 1 of 1992

² Law on Human National Human Rights Commission of Mongolia, published in State Bulletin No. 8 of 2020

- 4.1.1. “human rights defender” means any individual who acts separately or in association with others to conduct human rights protection activities;
- 4.1.2. ”human rights protection activities” means protection of human rights by promoting the realization of human rights and freedoms and takes part in respecting and protecting the human dignity and commonly recognized principles and norms of international law through non-violent and peaceful means against acts or omission causing human rights violation ;
- 4.1.3 “protecting the rights of human rights defenders” means the state organizations’ duty to prevent human rights defender from violating his/her human rights and freedoms by state, person, legal entity or entity unified under specific interest, and to restore violated rights of such person and grant compensation for the damage or loss resulted;
- 4.1.4. “respecting the rights of human rights defender” means the duty of state organizations, person or legal entities to refrain from interfering or obstructing legitimate acts of human rights defender and abstain to unlawfully affect the rights and freedoms of such person;
- 4.1.5. “violating the rights of human rights defenders” means acts and omissions committed in connection to the human rights protection activities carried out by a human rights defender against the human rights defender or his/her family members, domestic partner, relative or legal representative in forms of insult, defamation, deception, fraud, any discriminative act, violence, dissemination of false rumours, or refusal of activities of human rights defenders or call for such refusal, coercion, use of force or threatening by use of force, unlawful surveillance, harming life and damaging health or property;
- 4.1.6. “risk assessment” means a conclusion based on an assessment conducted to identify the level of threat and risk that occurred to a human rights defender and his/her family members, legal guardian, domestic partner, relative and legal representative and to evaluate if further protection measures are required.

Article 5. Main Principles of the Law

5.1. In addition to the main principles specified by the Constitution of Mongolia, a human rights defender shall adhere to the following principles:

- 5.1.1. Abide the Constitution and other laws;
- 5.1.2. Value the justice and humanity;
- 5.1.3. Avoid the corruption and conflict of interest;

5.1.4. Follow non-discrimination;

5.1.5. Respect honour, reputation, rights, and legal interests of others.

CHAPTER TWO RIGHTS, FINANCING AND PROHIBITION FOR HUMAN RIGHTS DEFENDERS

Article 6. Rights of human rights defenders

6.1. Human rights defender shall have the following rights:

6.1.1. to take part in activities for promoting and activities to protecting human rights and freedoms that are enshrined in the Constitution of Mongolia, other laws, and international treaties voluntarily;

6.1.2. to develop, discuss new ideas and principles of human rights, raise public awareness thereof and advocate for their acceptance;

6.1.3. with the intention to protect and promote human rights and freedoms, to assemble in any form, to establish a non-governmental organization, a coalition, an association, a group, or a union and participate in activities thereof;

6.1.4. to communicate and cooperate with national, international and regional human rights bodies and networks in charge of human rights protection;

6.1.5. to receive, seek, find, know, publicize, keep, and share information necessary for protecting human rights and freedoms from the state organizations and legal entities, unless such information is confidential by legislation;

6.1.6. to keep the source of information confidential until an effective remedy and reparation for the human rights violation are ensured for the individual concerned if the information was obtained in the course of protecting human rights and freedoms of such individual;

6.1.7. in order to make draft law complies with principles of the human rights and freedoms, to draw public attention, offer specific proposal, organize a discussion, deliver the proposal to legislative authorities, to conduct an assessment of implementation on laws and policy documents, and to offer necessary recommendations;

6.1.8. to lodge a complaint to and demand accountability from state organizations and public officials in relation to their obligations to fulfil and protect human rights and freedoms, and draw their attention to the violations of human rights and unlawful actions, and inform of such matter to others;

6.1.9. to represent a person based on the consent issued by the person to promote and protect human rights and freedoms;

- 6.1.10. to refer a complaint about violations of human rights and freedoms perpetrated by state organizations and legal entities, to the competent international human rights body;
- 6.1.11 To attend public hearings, proceedings and trials as an observer, express their opinion on whether state organizations and civil servants comply with the legislation and Mongolian compliance of International treaties.
- 6.1.12 To protect himself/herself from any attacks during the implementation of operation as a human rights defender, retribute the violated rights, reimburse its materialistic and non-materialistic damage as specified in the law.

Article 7. Financial openness and transparency of human rights defenders

7.1 All financial resources and sources relating to the activities of human rights defenders shall be transparent and open. His/her financial resources shall be consisted from the below:

- 7.1.1 Donation and assistance from a person or legal entity if there is no specific legal rule;
- 7.1.2 Monetary and other types of financial support from the State in accordance with legislation;
- 7.1.3 Other sources not contradicting with other laws.

7.2 Following resources and sources are not allowed in financing of activities of human rights defenders:

- 7.2.1 Receiving funds from international intelligence service, their cover organizations, organizations or person conduct activities harming the national unity or money laundering, terrorist or extremist activities and funds from unknown donors are prohibited;
- 7.2.2 Seeking, receiving and spending of financial resources and sources by other means which legally not banned are prohibited.

Article 8. Prohibitions for human rights defenders

8.1 The following actions and omissions shall be prohibited for human rights defenders:

- 8.1.1. to act in violent and non-peaceful ways or call others to act so;
- 8.1.2. to misuse honour and reputation of human rights defenders to advance private interests;
- 8.1.3. to defame honour, reputation and fame at the working field of others.

CHAPTER THREE
COMMON OBLIGATIONS OF STATE ORGANIZATIONS AND OFFICIALS, AND
LEGAL ENTITIES

Article 9. Common obligations

9.1 State organizations and officials, and legal entities shall have the following common obligations:

9.1.1 to recognize the rights of human rights defenders, avoid violation of their rights,

9.1.2 to respect their activities;

9.1.3 to enable an environment where human rights defenders can undertake their activities in non-violent and peaceful ways;

9.1.4 to provide relevant information;

9.1.5 to refrain from interfering in any way with human rights defenders without a ground specified in law;

9.1.6. to reflect regulations about protecting activities of human rights defenders in their internal procedures, implement such regulations, and conduct relevant training for their employees;

9.1.7. to deliver a reply to the Committee on Human Rights Defenders in writing explaining how information or complaint about interference with human rights defenders were dealt with.

9.2 Police organization shall interfere any assault directed toward human rights defenders according to the rules stated in Law on Witness and Victim Protection³ and should provide protection upon their request, or shall provide protection to human rights defender under the Law on Witness and Victim Protection based on the risk assessment conclusion issued by the Committee on Human Rights Defenders according to section 11.7 of Article 17 of this law.

9.3 All necessary measures should be taken in the scope of the organization's functions if the rights of human rights defenders are violated.

³ Law on Witness and Victim Protection published on State Bulletin No. 30 of 2013.

CHAPTER FOUR

PROTECTION MECHANISM FOR HUMAN RIGHTS DEFENDERS

Article 10. Committee on Human Rights Defenders

10.1 Under National Human Rights Commission, there shall be non-full-time the Committee on Human Rights Defenders (hereinafter the “Committee”) to issue a conclusion based on the evaluation of the necessity for protecting a human rights defender.

10.2 Chairperson of the Committee shall be a Commissioner of the National Human Rights Commission of Mongolia in charge of human rights defenders.

10.3 The Committee shall work independently and fulfil functions below:

- 10.3.1 to receive complaint or information regarding human rights violations of human rights defenders;
- 10.3.2 to collect evidence, fact, information relating to the complaint;
- 10.3.3 to describe needs and importance of protection of human rights defenders and provide risk assessment in accordance with Article 11.7 of this law;
- 10.3.4 to submit conclusion based on risk assessment to the National Human Rights Commission;
- 10.3.5 to conduct analysis and research on implementation of this law and status of human rights defenders and illustrate in annual human rights report of the National Human Rights Commission;
- 10.3.6 to create a database on complaints.

10.4 The Committee shall consist of six members of which two are directly appointed in compliance with Article 11.3 of this law and four members are selected from the representatives of nonprofit organizations. The selection process shall be under public hearing and members shall be appointed after the hearing.

10.5 The Committee shall have a membership that ensures gender equity and reflection of the diversity of human rights defenders who are actively acting at the national level.

10.6 The Chairperson and members of the Committee shall respect their office in exercising their freedom of speech, expression, and religious belief.

10.7 Chairperson and members of the Committee shall suspend their membership of political parties.

10.8 Financial source of the Committee shall be included in the budget of the National Human Rights Commission.

10.9 Operational procedure of the Committee shall be adopted by the National Human Rights Commission

Article 11. Selection of members of the Committee

11.1. A candidate for a member of the Committee to be selected from representatives of nonprofit entities shall meet the following requirements:

11.1.1. to have at least seven years of experience in the field of human rights protection nationally or internationally;

11.1.2. to have knowledge and experience on international human rights protection system and legal norms;

11.1.3. to have a no high position in political parties for last 5 years;

11.2. The Committee whose candidacy is from representatives of nonprofit entities shall be selected according to the following steps:

11.2.1. The National Human Rights Commission shall establish a working group composed of representatives from the Ministry of Justice and Home Affairs, National Human Rights Commission, Civil Service Council, National Committee on Gender Equality and Civil Society Council under National Human Rights Commission(hereinafter the “Working Group”) and conduct selection process;

11.2.2. Working group shall launch the vacancy announcement through public media for 30 days;

11.2.3 Working group shall publish the application information respecting personal privacy on National Human Rights Commission’s website within three working days after receipt of applications from candidates;

11.2.4. Working group shall receive questions and proposals to candidates from interested entity for 14 days after publicizing the candidate applications mentioned in Article 11.2.3;

11.2.5. The Working Group shall organize a public hearing with attendance of candidates who meet the requirements specified in section 11.1 of Article 11 of this law and shall run a discussion about such candidates;

11.2.6. After the public hearing, within 5 working days, the Working Group shall make appoint members of the Committee among candidates with highest scores to the vacancy seat;

11.3. The Commission shall adopt a member selection and nomination regulation of the Committee.

11.4 Mongolian Bar Association and the Association of Mongolian Advocates shall separately select their representing members of the Committee by respectively organized conferences shall submit their proposals to the meeting of the National Human Rights Commission.

11.5. Candidates who were selected according to the rules stated in sections 11.2 and 11.3 of current Article 11 of this law shall be confirmed as members of the Committee by the meeting of the National Human Rights Commission.

11.6 Members of the Committee shall be elected once to 3-year terms of office.

11.7 The Committee shall consider the dismissal of a member of the Committee before the end of his/her term by its meeting on the following grounds:

11.7.1. the member was appointed or elected as a public political servant, or as an administrative or special public servant;

11.7.2. the member has requested for his/her dismissal explaining that such member is unable to actively participate in the Committee operations due to health conditions or any other legitimate reasons;

11.7.3. the member has been accused of a crime.

11.8. The Commission shall adopt a method for risk assessment and conclusion procedure set forth in Article 4.6 of this law.

Article 12. Unit under the Committee

12.1 the Committee shall have the unit in charge of assistance to members of the Committee and structure and staff shall be appointed by the National Human Rights Commission.

12.2 Staff in the unit under the Committee shall be a public administrative servant.

12.3 The unit under the Committee shall be part of Secretariat of the National Human Rights Commission and fulfil the function mentioned in Article 10.3 of this law.

Article 13. Liability for violating the Law on Legal Status of Human Rights Defenders

13.1 Unless acts of an official in violation of this law constitutes a criminal offence, he/she shall be subject to liabilities set forth in the Public Service Law⁴.

13.2 Any individual and business entity in violation of this law shall be subject to liabilities set forth in the Criminal Code⁵, or Infringement Law⁶.

Article 14. Entry into force

14.1. This Law shall enter into force starting from July 1, 2021.

⁴ Public Service Law published in State Bulletin No. 1 of 2018.

⁵ Criminal Code Published in State Bulletin No. 7 of 2016

⁶ Infringement Law published in State Bulletin No. 24 of 2016

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ON AMENDMENT TO THE LAW ON WITNESS AND VICTIM PROTECTION

Article 1. To add new clause to Article 4 of the Law on Witness and Victim Protection as follows:

4.1.4: "Human rights defender" defined in Article 4.1.1 of the Law on Legal Status of Human Rights Defenders;

Article 2. To amend/revise clauses 5.1- 5.3 of the Law on Witness and Victim Protection as follows:

5.1. This law applies to witness, victim and human rights defender.

5.2. When required, this law may apply to related persons of witness, victim and human rights defender.

5.3. Related persons of witness, victim and human rights defender set forth in clause 5.2 of this law mean their spouse, partner, parents, grandparents, birth, step and adopted children, biological siblings and grandchildren.

Article 3. To add a new clause to Article 21 of the Law on Witness and Victim Protection as follows:

21.2.4. With regard to protecting human rights defenders, detective upon request of the Committee for Human Rights Defender.

Article 4. This law shall come into force from the commencement date of the Law on Legal Status of Human Rights Defenders.

Signature

LAW OF MONGOLIA

April 2, 2021

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ON AMENDMENT TO THE INFRINGEMENT LAW

Article 1. To add a new clause to Chapter 5 of the Infringement Law as follows:

5.20. Breach of the Law on Legal Status of Human Rights Defenders:

1. For insulting or slandering human rights defenders or demanding or soliciting not to support their activities, a damage caused shall be compensated and an individual shall be fined by 100 units, a legal entity shall be fined by 1000 units.

2. If a human rights defender carried out activities in a violent and not peaceful way, misused its activities for a personal gain and tarnished other's reputation or business reputation by violating human rights and freedom, a damage caused shall be compensated and an individual shall be fined by 100 units, a legal entity shall be fined by 1000 units.

Article 2. This law shall come into force from the commencement date of the Law on Legal Status of Human Rights Defenders.

Signature