

**LAW OF MONGOLIA**  
**ON THE LEGAL STATUS OF HUMAN RIGHTS DEFENDERS**

....day....month 2020

Ulaanbaatar

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**Article 1. Objective of the Law**

1.1 The objective of this law is to establish legal grounds for respect, protection, promotion, and fulfillment of the rights of 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 Mongolia, 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 set out the legal status of human rights defenders who are conducting activities in the territory of Mongolia.

## Article 4. Definitions

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

4.1.1. “human rights defender” means any individual who acts separately or in association with others to promote 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;

4.1.2. “respecting the rights of human rights defender” means the duty of state organizations, nonprofit organizations, and business entities to refrain from interfering or obstructing legitimate acts of the person defined in section 4.1.1 of current Article of this law and abstain to unlawfully affect the rights and freedoms of such person;

4.1.3 “protecting the rights of human rights defenders” means state organizations’ duty to prevent state or nongovernmental persons from violating the human rights and freedoms of the person specified in section 4.1.1 of current Article of this law which rights and freedoms are guaranteed by the Constitution of Mongolia, other laws, and international human rights treaties, and to restore violated rights of such person and grant compensation for the damage or loss resulted;

4.1.4. “ensuring the human rights of human rights defenders” means the duty of the state to allocate adequate resources for legitimate acts of the person specified in section 4.1.1 of current Article of this law as such acts would require and to constitute guarantees for the person’s activities;

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, or legal representative in forms of insult, defamation, deception, fraud, any discriminative act, violence, dissemination of false rumors, 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. “family member” means persons specified in section 3.1.4 of Article 3 of Law on Family;

4.1.7. “domestic partner” means a person specified in section 5.1.6 of Article 5 of Law against Domestic Violence;

4.1.8. “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 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. respect human dignity;
- 5.1.2. rule of law;
- 5.1.3. non-discrimination;
- 5.1.4. avoidance of corruption and conflict of interest;
- 5.1.5. the certainty of liability.

## **CHAPTER TWO**

### **RIGHTS OF AND PROHIBITION FOR HUMAN RIGHTS DEFENDERS**

## **Article 6. Rights of human rights defenders**

6.1. In addition to the rights stated in the Constitution of Mongolia and in international human rights treaties to which Mongolia is a party, a human rights defender shall have the following rights:

- 6.1.1. to take part in activities for promoting and protecting human rights and freedoms that are enshrined in the Constitution of Mongolia, other laws, and international treaties;
- 6.1.2. to develop, discuss new ideas and principles of human rights, raise 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. for the purpose to protect human rights and freedoms, to initiate, organize, and participate in peaceful assembly and disseminate relevant information;

6.1.5. to communicate and cooperate with national, international and regional human rights bodies and networks;

6.1.6. to solicit, receive and utilize resources through means other than those prohibited by law;

6.1.7. to receive, seek, find, know, publicize, keep, and share information necessary for protecting and promoting human rights and freedoms from the state, private sector persons, and civil society unless such information is confidential state, corporate or individual information specified in the Law on State and Official Secrets, Law on Organizational Secrets, and Law on Individual Confidentiality;

6.1.8. 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;

6.1.9. in order to make draft law complies with principles of the human rights and freedoms, to draw public attention, offer specific proposal, take an advocacy action to have such proposal accepted, 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;

6.1.10. to participate in public affairs, criticize, lodge complaint to and demand accountability from state organizations and public officials in relation to their obligations to fulfill 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;

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

6.1.12. to refer a complaint about violations of human rights and freedoms perpetrated by state organizations, public authorities, heads of non-government organization and business entities, to the competent international human rights body;

6.1.13. to conduct monitoring on the process of a trial, legal proceedings, and public hearing unless otherwise specified in the law, and express an

opinion on the status whether state organizations and public officials are complying with relevant laws and international norms;

6.1.14. to counsel and assist any individual upon his/her request or offer such counsel relating to the protection of human rights and freedoms;

6.1.15. to meet in person, counsel and assist any foreigner or a stateless person upon his/her request in case such individual is being deported from the territory of Mongolia;

6.1.16. to request for the same protection as a witness, victim, or a survivor of domestic violence would request in case a human rights defender or his/her family member, domestic partner or relative in risk or potential risk;

6.1.17. to be protected from interference, to have violated rights restored, to be provided with an effective remedy for his/her psychological and substantial damages, and to receive compensation;

6.1.18. to have the enabled use of encrypted exchange of digital information, and to be protected from any unlawful access to the confidentiality of digital information.

## **Article 7. Prohibitions for human rights defenders**

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

7.1.1. to act in violent and non-peaceful ways or call others to act so;

7.1.2. to misuse honor and reputation of human rights defenders to advance private interests;

7.1.4. to disrespect or violate human rights and freedoms.

## **CHAPTER THREE**

### **COMMON OBLIGATIONS OF STATE ORGANIZATIONS AND OFFICIALS, NON-GOVERNMENTAL ORGANISATIONS, AND BUSINESS ENTITIES**

## **Article 8. Common obligations**

8.1 State organizations and officials, non-governmental organizations, and business entities shall have the following common obligations:

8.1.1 to recognize the rights of human rights defenders, avoid violation of their rights, respect their activities, enable an environment where human rights defenders can undertake their activities through peaceful means free from duress, intimidation, and any fear, and provide necessary information;

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

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

8.1.4 to permit and facilitate free and full access to places and information required by all human rights defenders during their activities for promoting and protecting human rights”;

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

## **Article 9. Functions of State Organizations and Officials**

9.1 The State Great Khural of Mongolia shall have the following mandates:

9.1.1. to develop a policy on human rights defenders and improve the legal environment;

9.1.2. to allocate resource to the Crime Victims Compensation Fund as it would be required to restore violated rights of human rights defenders, to retribute the damage or loss resulted, and to grant compensation;

9.2. State organizations and officials shall have the following functions in relation to the human rights defenders:

9.2.1. Police organization shall interfere any assault directed toward human rights defenders according to the rules stated in Law on Witness and Victim Protection 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.

9.2.2. In case a human rights defender is under investigation of state authority in connection to his/her human rights defending activity, the case shall be informed immediately to the Committee on Human Rights Defenders.

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

## **CHAPTER FOUR**

### **PROTECTION MECHANISM FOR HUMAN RIGHTS DEFENDERS**

#### **Article 10. Committee on Human Rights Defenders**

10.1 The Committee on Human Rights Defenders (hereinafter the "Committee") is an organization comprised of representatives of the state and civil society and its obligation shall be supporting the protection of human rights defenders. The Committee shall have functions to transfer information or complaint about interference with human rights defenders to the competent authority, to request and receive a reply in writing, to conduct a risk assessment, to issue a conclusion based on the evaluation of the necessity for protecting a human rights defender.

10.2 The Committee shall operate independently and impartially under the National Human Rights Commission and should closely collaborate with civil society and marginalized groups.

10.3 The Committee shall consist of seven members of which four members are selected from the representatives of nonprofit organizations. Other members of the Committee shall be a Commissioner of the National Human Rights Commission, a lawyer who is a member of the Mongolian Bar Association, and an advocate who is a member of the Association of Mongolian Advocates.

10.4 Chairperson of the Committee shall be a Commissioner of the National Human Rights Commission of Mongolia.

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.

## **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 active and consistent professional experience in the field of human rights protection;

11.1.2. to have a position at an international or national human rights networks;

11.1.3. to have experience of preparation and submission of a shadow report to international human rights mechanisms such as the United Nations human rights treaty bodies and Universal Periodic Review of Human Rights Council;

11.1.4. to be persons of high moral character.

11.2. Four members of the Committee whose candidacy is from representatives of nonprofit entities shall be selected according to the following rules:

11.2.1. The National Human Rights Commission shall launch the vacancy announcement through public media and its official website in no less than six months before the selection;

11.2.2. A working group composed of representatives from the National Human Rights Commission, its Ex-Officio Board, civil society /hereinafter the "Working Group"/ shall consolidate and publicly present the list of



candidates via public media and its official websites after six months of the vacancy announcement;

11.2.3. 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;

11.2.4. After the public hearing, the Working Group shall make a shortlisting from candidates and submit its decision to the Ex-Officio Board of National Human Rights Commission along with the note shows that all shortlisted candidates meet legal requirements;

11.2.5 Members of the Ex-Officio Board of the National Human Rights Commission shall vote anonymously and four candidates who had the most votes shall be considered as appointed as members of the Committee.

11.3 The National Human Rights Commission, 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.

11.4. 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.

11.5 Member of the Committee shall be appointed for five years and can be re-selected for one additional term.

11.6 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:

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

11.6.2. 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;

11.6.3. the member has been accused of a crime.

## **Article 12. Liability for violating the Law on Legal Status of Human Rights Defenders**

12.1 Any individual, public official, and business entity that violated this law shall be held accountable under Law on Infringement.

12.2 If the action of violation by the officials is not considered as having criminal nature, it shall be held accountable under the Law on the National Human Rights Commission of Mongolia, Law on Civil Service, Law on State Supervision and Inspection, and other relevant laws.

### **Article 15. Entry into force**

15.1. This Law shall enter into force starting from ... date ....month.... 2020.