



# **MONGOLIA: HUMAN RIGHTS AGENDA FOR THE 2024- 2028 STATE GREAT KHURAL**

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**Cover photo:** Launch of *Know your Obligation* campaign on the adequate housing rights in Sukhbaatar square, Ulaanbaatar, Mongolia © Amnesty International Mongolia

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# GLOSSARY

UN	United Nations
NHRC	National Human Rights Commission
UPR	Universal Periodic Review
HRDs	Human rights defenders
STATE GREAT KHURAL	Mongolian parliament
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
GAIA	Ger Area Infrastructure Agency
MLA	Mutual Legal Assistance Treaty

# INTRODUCTION

## A HUMAN RIGHTS AGENDA FOR THE 2024-2028 MONGOLIAN PARLIAMENT

In 2020, Mongolia was reviewed under the Universal Periodic Review (UPR) and received 190 recommendations, 170 of which were accepted.<sup>1</sup>

Supported recommendations include topics such as human rights and the environment, good governance and freedom of expression and tackling corruption. Recommendations submitted by Amnesty International were also supported, such as adopting laws protecting human rights defenders (HRDs) and establishing an independent and impartial mechanism to investigate promptly and effectively complaints of torture and other ill-treatment and ensure that perpetrators are held accountable.<sup>2</sup>

The Mongolian State Great Khural (Parliament) of 2020-2024 has made some progress in terms of initiating, approving and implementing laws and policies within the framework of implementing the 2020 UPR recommendations.<sup>3</sup> For example, on 2 April 2021, Mongolia became the first country in Asia to adopt the Law on the Legal Status of Human Rights Defenders.<sup>4</sup> In June 2022, the parliament of Mongolia appointed a member of the national human rights commission to be responsible for the issue of human rights defenders<sup>5</sup>, and a mechanism for implementing the law on the legal status of human rights defenders was established. The National Mechanism for Prevention of Torture<sup>6</sup>

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<sup>1</sup> UN Report of the Working Group on the Universal Periodic Review (WG UPR) Addendum, Report: Mongolia, 22 February 2021, UN Doc. A/HRC/46/9/Add.1, paras 1-4.

<sup>2</sup> Amnesty International, Mongolia: More must be done to improve human rights, Amnesty International Submission for the UN Universal Periodic Review, 36<sup>th</sup> session of the UPR Working Group, November 2020, (Index: Index: ASA 30/1297/2019), October 2019, Updated July 2020, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3012972019ENGLISH.pdf>.

<sup>3</sup> Mongolia, “Монгол Улсын Их Хурлын хүндэтгэлийн хуралдаанд Монгол Улсын Их Хурлын дарга Г.Занданшатарын хэлсэн үг” [G. Zandanshatar, Chairman of the Great Khural of Mongolia, said at the Honorary Session of the Great Khural of Mongolia], 09 December 2023, <https://www.parliament.mn/nn/51485/>.

<sup>4</sup> Mongolia, Хүний эрх хамгаалагчийн эрх зүйн байдлын тухай хууль [The law on legal status of Human rights defenders], 2021, <https://legalinfo.mn/mn/detail?lawId=16207226850601>; (An unofficial English version is available at <https://legalinfo.mn/mn/translate/>)

<sup>5</sup> Монгол Улсын Их Хурлын 28-р тогтоол, Монгол Улсын Хүний эрхийн Үндэсний Комиссын гишүүн томилох тухай, [Regulation 28 on appointment as a member of the national human rights commission of Mongolia], <https://legalinfo.mn/mn/detail?lawId=16530492196621> (in Mongolian).

<sup>6</sup> Mongolia, Монгол Улсын Хүний эрхийн Үндэсний Комиссын тухай хууль [The law on National Human rights Commission], 2020, <https://legalinfo.mn/mn/detail/15152> (in Mongolian).

was also established in June 2022 according to the Law on National Human Rights Commission of Mongolia.

However, the 2020-2024 Parliament did not take appropriate and effective measures to establish an independent mechanism to effectively investigate complaints of torture and other ill-treatment. It also failed to ensure the right to adequate housing is safeguarded within the framework of urban redevelopment and it failed to adequately address forced evictions, and human rights violations on environmental issues. The physical and mental health of prisoners with life sentences has also been neglected.<sup>7</sup>

Therefore, to improve the country's fulfillment and protection of its citizens' human rights, Mongolia needs to revise its National Action Plan on Human Rights.<sup>8</sup> In particular, Mongolia must ensure proper implementation of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and take effective measures to stop the negative impact of corporate actors on economic, social and cultural rights including adequate housing rights, environmental issues, and human rights violations related to technology.<sup>9</sup>

In this agenda, Amnesty International urges members of Parliament to improve Mongolia's national human rights record, to ensure that the state does not commit human rights violations and remedies past abuses.

Furthermore, Amnesty International calls on the newly elected members of the State Great Khural to fulfill the six-point human rights agenda outlined in this briefing as part of Mongolia's commitment to ensure economic, social, and cultural rights, the rights to freedom of expression, association, and peaceful assembly, to freedom from torture and other ill-treatment, and to fair trial.

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<sup>7</sup> Amnesty International Mongolia, “Хүний Эрхийн Үндэсний Форум-2023” -ын илтгэл [Public speech on “National Human Rights Forum-2023”], <https://amnesty.mn/news/123> (In Mongolian).

<sup>8</sup> Mongolia, Монгол Улсын их хурлын 41-р тогтоол, Монгол Улсад хүний эрхийг хангах үндэсний хөтөлбөр батлах тухай [Regulation on National Action Plan on Human Rights], 24 October 2003, <https://legalinfo.mn/mn/detail/6265> (in Mongolian).

<sup>9</sup> UN, Report of the Special Rapporteur on the issue of human rights obligation to the enjoyment of a safe, clean, healthy, and sustainable environment on his mission to Mongolia, 02 May 2018, UN. Doc A/HRC/37/58 add.2.

# RESPECT AND PROTECT HUMAN RIGHTS IN THE FRAMEWORK OF THE URBAN RE-DEVELOPMENT PLAN

The ongoing redevelopment project in Ulaanbaatar continues to see residents in the targeted areas facing threats to their right to adequate housing due to deficiencies in both the legal framework and its enforcement, compounded by inconsistent actions and lack of clear responsibility and accountability of relevant government bodies.<sup>10</sup> Additionally, residents continue to live with the risk of homelessness and forced eviction without updated information on redevelopment plans, genuine consultation with those affected, or adequate compensation to those evicted due to urban redevelopment.<sup>11</sup>

The Law on Reducing Urban Traffic Congestion and Providing Housing in Ger Areas<sup>12</sup>(2023), the Law on Urban Development<sup>13</sup> (2008) and Law on Urban Redevelopment<sup>14</sup> (2015), which are encompassing land acquisition, compensation, eviction, and right to remedy, remain with a failure to comply with international human rights standards, specifically protection of adequate housing rights.

In addition, policies and legal mechanisms aimed at safeguarding the inviolability of homes from third-party interference<sup>15</sup> continue to lack clarity including explanations regarding complaint procedures and dispute resolution.

People affected by urban redevelopment agenda face difficulty with lodging complaints regarding the quality and standard of buildings constructed within the urban redevelopment plan framework, seeking fair compensation for their losses and remedy for violations of their rights.

Amnesty International Mongolia submitted recommendations in relation to this issue and the urban re-planning process more widely to the Parliament for 2020-2024.<sup>16</sup> However, up-to date, none of these recommendations have been implemented.

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<sup>10</sup> Amnesty International Mongolia, “Mongolia: Thousands at risk of homelessness due to authorities’ urban redevelopment failings”, 07 December, 2016, <https://www.amnesty.org/en/latest/news/2016/12/mongolian-authorities-are-failing-residents-of-ulaanbaatar-redevelopment-2/>

<sup>11</sup> Amnesty International, Mongolia: More must be done to improve human rights, Amnesty International Submission for the UN Universal Periodic Review, 36<sup>th</sup> session of the UPR Working Group, (ASA 30/1297/2019), 31 October 2019, <https://www.amnesty.org/en/documents/asa30/1297/2019/en/> p.7, para 4.

<sup>12</sup> Mongolia, Нийслэл Улаанбаатар хотын замын хөдөлгөөний түгжрэлийг бууруулах,гэр хорооллыг орон сууцжуулах тухай хууль [The law on Reducing Urban Traffic Congestion and Providing Housing in Ger Areas], 2023, <https://legalinfo.mn/mn/detail?lawId=16960742235481> (in Mongolian).

<sup>13</sup> Mongolia, Хот байгуулалтын тухай хууль [The law on Urban Development], 2008, <https://legalinfo.mn/mn/detail/530> (in Mongolian).

<sup>14</sup> Mongolia, Хот, суурин газрыг дахин хөгжүүлэх тухай хууль [The Law on Urban Redevelopment], 2015, <https://legalinfo.mn/mn/detail/11219> (in Mongolian).

<sup>15</sup> Amnesty International, Falling Short- The right to adequate housing in Ulaanbaatar, Mongolia, (Index: ASA 30/4933/2016), 07 December 2016, <https://www.amnesty.org/en/documents/asa30/4933/2016/en/> p.16, para2.

<sup>16</sup> Amnesty International Mongolia, Human Rights Agenda for the 2020-2024 State Great Khural, 2020, <https://amnesty.mn/library/3622> (In Mongolian).

## RECOMMENDATIONS:

1. Revise existing legislations, including the 2008, 2015 and 2023 Laws on Urban Development, Urban Redevelopment, and Reducing Urban Traffic Congestion and Providing housing to Ger areas, to ensure compliance with international human rights laws and standards including the right to adequate housing.
2. Monitor the implementation of these laws and enact effective accountability mechanisms for urban replanning processes to ensure remedy for human rights violations and abuses.
3. Within the context of urban redevelopment, enforce the prohibition of forced evictions, including the use of excessive force, and carry out any evictions in line with international human rights laws and standards including establishing and enforcing adequate safeguards prior to land acquisition and resettlement.
4. In cases where people's right to adequate housing have been violated, including resulting in homelessness, all efforts should be made to address and mitigate the negative consequences of such violations and provide remedy to victims.

## ENSURE HUMAN RIGHTS PROTECTION FROM ENVIRONMENTAL DEGRADATION

Authorities have failed to protect herders from the adverse impacts of mining activities on their access to clean water, land, pastures, traditional heritage and livelihoods. Moreover, the state has been unable to shield people from the detrimental effects of natural disasters and diseases, and to remedy their violated rights by providing full compensation for losses and damages incurred and has failed to fulfill human rights obligations during such times.<sup>17</sup>

Amnesty International has received complaints alleging that mining companies are threatening herders to deter them from disclosing information to the public regarding individuals poisoned by toxic waste dumped in residential areas by these companies, as well as general information concerning toxic waste and pollution.<sup>18</sup>

The Mongolian government's decision in 2018 to dissolve the General Agency for Specialized Inspection<sup>19</sup>, an Agency was also responsible for overseeing the operation of all businesses across the country. Even though the work of the Agency's task has been transferred to the Ministry of Environment and

<sup>17</sup> Amnesty International, The state of world human rights, (POL 10/5670/2023), <https://www.amnesty.org/en/documents/pol10/5670/2023/en/> p.256.

<sup>18</sup> Amnesty International, Mongolia: More must be done to improve human rights, (previously cited), p.8, para 2.

<sup>19</sup> Mongolia, Засгийн Газрын 461-р тогтоол, Хууль хэрэгжүүлэх талаар авах зарим арга хэмжээний тухай [Government regulation on measures some law enforcement actions] 2022 <https://legalinfo.mn/mn/detail?lawid=16532027305321> (In Mongolian).

Tourism<sup>20</sup> this decision would have impact on fulfilling the state’s duty to mitigate the impact of mining companies and safeguard the rights of residents.

### RECOMMENDATIONS:

1. Improve monitoring systems for the storage, protection, and disposal of toxic substances.
2. Enact laws to ensure fair and effective compensation, and to address both violated rights of individuals including herders and local communities whose health or property has been adversely affected by toxic substances, and those who advocate for the preservation of the environment, culture, and nomadic way of life.
3. Ensure state agencies respect human rights and environmental protection, implementing ongoing human rights and environmental due diligence throughout corporation’s operations, services, products.
4. Ensure businesses set and follow human rights due diligence regulations such as the “Action plan for protection of human rights in business activities, prevention of human rights violations and restoration of violated rights (2023-2027)” set by the Mongolian government and enact laws including the duty of companies to publicly report on the human rights and environmental impacts of their activities and establish a system for public disclosure of environmental impact assessments.

## ELIMINATE DISCRIMINATION RESULTING FROM UNFAIR TAXATION AND AUSTERITY MEASURES

The ICESCR to which Mongolia is a party, states that “Each State Party to the present Covenant undertakes to take steps to the maximum of its available resources, with a view to progressively achieving the full realization of the rights recognized in the present Covenant through all appropriate means, including particularly the adoption of legislative measures”.<sup>21</sup>

Given that taxes generate most of the revenue that states can utilize to protect and promote the rights of their populations<sup>22</sup>, Mongolia must ensure that domestic taxation policies and measures are designed to generate sufficient resources to invest in the progressive realization of human rights, including efforts to reduce socioeconomic inequality. The standard human rights

<sup>20</sup> Mongolia, Засгийн Газрын 469-р тогтоол, Мэргэжлийн хяналтын чиг үүргийг салбарын яамдад шилжүүлэх талаар авах арга хэмжээний тухай [Government regulation on measures for transferring Specialized Inspection’s function to line Ministers], 2022, <https://legalinfo.mn/mn/detail?lawId=16532259091861> (In Mongolian).

<sup>21</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 2. Para.1.

<sup>22</sup> Amnesty International, Taxation and Human Rights: A Set of High-Level Principles 2022, (IOR 40/5771/2022), June 2022 <https://www.amnesty.org/en/wp-content/uploads/2022/06/IO4057712022ENGLISH.pdf>, p.3.

obligations framework—respect, protect and fulfill—applies to the development and implementation of tax and other fiscal policies, just as it does to all other government actions.<sup>23</sup>

Decision-making processes concerning taxation and public expenditure should be transparent and involve the widest possible national dialogue.<sup>24</sup> This includes effective and meaningful participation by member of civil society and those directly impacted by such policies, including people living in poverty.<sup>25</sup> The 2020-2024 Mongolian Parliament revised the Law on Budget and amended a provision for holding public discussions in the preparation of the state budget draft which was a welcome amendment in line with the principle of human rights-friendly budgeting.<sup>26</sup>

#### RECOMMENDATIONS:

1. Enhance the Mongolian parliament’s capacity for scrutinizing all fiscal policy decisions, including taxation measures and budgetary allocations and spending, from a human rights perspective.
2. Ensure that human rights impact assessments are integrated into all fiscal policy decision making including taxation and budgeting.

## FOCUSING ON HUMAN RIGHTS ISSUES RELATED TO TECHNOLOGY

While technological advances can improve human rights conditions, Amnesty International has documented the risks that using technology may perpetuate inequality, stifle dissent and normalize the use of state-led surveillance around the world.

According to the UN General Assembly resolution 71/199, “unlawful or arbitrary surveillance and/or interception of communications, as well as the unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the right to privacy, and can interfere with the right to freedom of expression [...]”.<sup>27</sup>

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that States that are parties to the International Covenant on Civil and Political Rights (ICCPR) must undertake the necessary steps to adopt laws or other measures to ensure surveillance of digital

<sup>23</sup> Amnesty International, *Taxation and Human Rights: A Set of High-Level Principles* (previously cited), p.2.

<sup>24</sup> UN Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, Mission to Ireland, 17 March 2011, UN Doc. A/HRC/17/34, paras. 36-38.

<sup>25</sup> UN Independent Expert on the question of human rights and extreme poverty, Mission to Ireland, (previously cited) paras. 36-38.

<sup>26</sup> Mongolia, *Төсвийн тухай хуулийн 28.2.1 хэсгийн нэмэлт өөрчлөлт* [The Amendment on the Law on Budget, 28.2.1], 2011, (In Mongolian), (as amended on 7 July 2023).

<sup>27</sup> UN, *The right to privacy in the digital age: resolution/adopted by the General Assembly*, <https://digitallibrary.un.org/record/858023?v=pdf>, p.3.

communications is in consistent with international standards and recommendation<sup>28</sup> such as the recommendation of the special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

On 20 January 2023, the parliament approved the "Law on the Protection of Human Rights in Social Platform " without public discussion.<sup>29</sup> However, President Ukhnaa Khurelsukh vetoed the law arguing it violated the Constitution and the Law on Legislation. Under the guise of protecting "national unity" and "state secrets", the law would have given the government the power to monitor, delete, or suspend content and social media accounts without judicial review or intervention, potentially leading to undue restrictions on the right to freedom of expression in the online environment.<sup>30</sup>

The governments are increasingly incorporating unchecked digital technologies into their social protection systems, which can exacerbate and entrench existing flaws, discrimination, and inequality, significantly undermining human rights.<sup>31</sup> Therefore, during digital transition, which refers to the process of transforming traditional public services onto an online platform, it is imperative to enhance the legal framework with particular attention to human rights issues.

Amnesty International's analysis of recent technical infrastructure linked to Predator spyware, a highly invasive spyware that can access unlimited amounts of data on device and cannot be independently audited<sup>32</sup>, indicated likely active customers or targeting of individuals in several countries including Mongolia.<sup>33</sup>

#### **RECOMMENDATIONS:**

1. Ensure that digital technology is used in line with international human rights laws and standards, including the right to privacy, equality, and non-discrimination, as well as data protection standards.
2. Ensure that use of any technology in social protection system, governance system, and in delivering social services is in line with human rights standards and is accompanied by adequate and robust human rights impact assessment throughout the lifecycle of the system, from design to deployment, and effective mitigation measures.
3. Enforce a ban on the use, sale or transfer of highly invasive spyware.
4. Improve legislation that imposes safeguards against human rights abuses through digital surveillance and establish accountability

<sup>28</sup> United Nations, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Surveillance and human rights, 2019/05/28, p.3.

<sup>29</sup> Mongolia, Олон нийтийн сүлжээнд хүний эрхийг хамгаалах тухай хуулийн төсөл [Law draft on The protection of human Rights in social networks], 20 January 2023, (as vetoed by the President, 27 January 2023) <https://legalinfo.mn/mn/detail?lawId=16758861629711> (in Mongolian).

<sup>30</sup> Mongolia, Draft of law on the protection of human rights in social networks, (previously cited).

<sup>31</sup> Amnesty International, Global: Governments' adoption of unchecked technologies in social protection system undermines rights, March 2024, <https://www.amnesty.org/en/latest/news/2024/03/global-governments-adoption-of-unchecked-technologies-in-social-protection-systems-undermines-rights/>

<sup>32</sup> Amnesty International, The Predator files: Caught in the net, 2023, ACT 10/7245/2023, <https://www.amnesty.org/en/documents/act10/7245/2023/en/> p.10.

<sup>33</sup> Amnesty International, The Predator files: Caught in the net (previously cited) same page.

mechanisms designed to provide victims of surveillance abuses with a means of remedy.

## PROTECT THE RIGHTS TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

Article 16.16 of the Constitution of Mongolia<sup>34</sup> guarantees the right to freedom of expression and peaceful assembly within the country also having ratified the ICCPR.

In line with its human rights commitments, Mongolia should ensure people can effectively exercise their right to freedom of expression without discrimination.<sup>35</sup> Authorities must also ensure an enabling environment for freedom of expression, including by promoting a free, independent, and diverse communications environment which is a key means of combating misinformation and propaganda.<sup>36</sup>

Amnesty International Mongolia monitored law enforcement operations during the pandemic and found that laws and policies that violate international human rights laws and standards namely undue restrictions to the right to freedom of expression, peaceful assembly, and association were being implemented.<sup>37</sup> Amnesty International Mongolia documented law enforcement using force to unlawfully disperse peaceful demonstrations, the arbitrary arrest and detention of protest organizers, used unnecessary use of force, and disclosure of personal information protected by law in public media, and discrimination.<sup>38</sup>

Law enforcement agencies have committed a number of human rights violations, ranging from arbitrary arrests and detentions to unlawful use of force under the pretext of combating the Covid-19 pandemic. In particular, human rights have

<sup>34</sup> Mongolia, *Монгол Улсын Үндсэн Хууль* [The Constitution of Mongolia], 13 January 1992, <https://legalinfo.mn/mn/edti/16230947950271>, (In Mongolian).

<sup>35</sup> Amnesty International, A human rights approach to tackle disinformation: submission to the office of the high commissioner for human rights (Index: IOR 40/5486/2022), 14 April 2022, <https://www.amnesty.org/en/wp-content/uploads/2022/04/IO4054862022ENGLISH.pdf>, p.14.

<sup>36</sup> Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda. UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, Special Rapporteur on Freedom of Expression of the InterAmerican Commission on Human Rights, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples’ Rights (2017), para. 2.a; and Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49, para. 49.

<sup>37</sup> Amnesty International Mongolia, *Ковид 19 цар тахал хууль сахиулах ажиллагаа Монгол Улс: Цагдаагийн байгууллага, алба хаагчдын үйлдсэн хүний эрхийн зөрчил, тохиолдол* [Law enforcement during the Covid-19 pandemic Mongolia: Cases of human rights violations committed by police and officers], December 2021, p.5, last para.<https://amnesty.mn/library/3608>. (In Mongolian)

<sup>38</sup> Amnesty International Mongolia, Law enforcement during the Covid-19 pandemic Mongolia: Cases of human rights violations committed by police and officers, (previously cited).

been violated during the dispersal of peaceful demonstrations and assemblies through inhumane treatment of the organizers and participants.<sup>39</sup>

Mongolia also initiates, adopts and implements laws, such as Article 13.14 of the Criminal Code of Mongolia added on 10 January 2020 and Article 21.9 added on 7 December 7 2023, that have the effect of restricting the right to freedom of expression, including press freedom online and offline, in violation of international law and standards.<sup>40</sup> Also, journalists and others expressing opinions critical, or perceived as critical of the authorities, face intimidation, baseless investigation, arbitrary detention and fines.<sup>41</sup>

On April 2, 2021, the Great Khural of Mongolia approved the "Law on the Legal Status of Human Rights Defenders", making it the first country in Asia to provide a framework of protection for people who speak out on human rights concerns and violations. However, the law has some articles that could be interpreted as limiting HRDs' rights. Article 8.1.3 prohibits defamation of the 'honour or reputation of others'. This broad provision could be misused to silence or criminalise defenders, by claiming that any act of denunciation breaches this prohibition. This presents a particular risk for defenders working on human rights violations associated with the extraction industry. Similarly, article 7.2.1 restricts funding from organizations or persons carrying out activities that are deemed 'terrorist, extremist, or that harm national unity'. These generic terms could be used to impede human rights defenders from obtaining resources.<sup>42</sup>

Amnesty International urges the State Great Khural of Mongolia to ensure the existing legal framework complies with international human rights laws and standards on the right to freedom of expression, association, and peaceful assembly, including by repealing provisions that violate human rights and ensuring that new draft laws are in line with international human rights standards.

## RECOMMENDATIONS:

1. Ensure that blanket bans on the dissemination of information, including those based on vague and ambiguous concepts such as "false news" or "spreading misinformation" including the Article 13.14 of the Criminal Code of Mongolia, which imposes criminal penalties simply for sharing or distributing information are removed.

<sup>39</sup> Amnesty International Mongolia, Law enforcement during the Covid-19 pandemic Mongolia: Cases of human rights violations committed by police and officers, (previously cited), p.10, para 1.

<sup>40</sup> Mongolia, Draft of law on the protection of human rights in social networks, (previously cited).

<sup>41</sup> Ikon.mn, "Үзэл бодлоо илэрхийлэх эрх чөлөөг нүхчин дарсан нь" ["Suppression of freedom of expression"], 10 December 2021, <https://ikon.mn/opinion/2em4>.

Asuudal.mn, "Монгол дахь үг хэлэх, үзэл бодлоо илэрхийлэх эрх чөлөөний эрх зүйн зохицуулалтыг сайжруулах шаардлагатай" ["It is necessary to improve the legal regulation of freedom of speech and expression of opinion in Mongolia"], 14 January 2023, <http://www.asuudal.mn/more/8131> and Unuudur.mn "Сэтгүүлчид гартаа гав зүүж, хэвлэлийн эрх чөлөөний төлөө жагслаа" ["Handcuffed journalists marched for press freedom"], 06 May 2024, <https://www.unuudur.mn/a/267619> (In Mongolian).

<sup>42</sup> ISHR, Mongolia adopts region's first HRD Law; some provisions worry defenders, 10 August 2021, <https://ishr.ch/latest-updates/mongolia-concerns-over-restrictive-hrd-law-passed-by-mongolian-parliament/>

2. Repeal policies and laws that impose undue and excessive restrictions on the right of peaceful assemblies. Define the role of the authorities in facilitating the right of peaceful assembly and revise the Law on Procedures for Demonstrations and other related laws complying with international human rights standards.
3. Ensure the right to association by improving government policies and laws on civil society complying with international human rights standards.
4. Assess the Law on the Legal Status of Human Rights Defenders and consider amending Articles 7.2.1 and 8.1.3 in the Law on the Legal Status of Human Rights Defenders or provide extra assurances and guidance on the restrictive implementation of these provisions, so that they will not be misused by authorities to restrict the legitimate activities of human rights defenders.

## END IMPUNITY

Mongolia adopted the Optional Protocol to the Convention against Torture in 2014, but the law on the NHRC which contains a section to build a National Preventive Mechanism for the prevention of torture was only revised in 2020.<sup>43</sup> The start of the implementation of the mechanism in 2022 under the NHRC was an important step in preventing torture and other cruel, inhuman, or degrading treatment.<sup>44</sup>

Cases of torture and other ill-treatment are still occurring in detention facilities but are rarely brought to justice. According to the report of the General Prosecutor's Office, only about 5% of the complaints of torture or other ill-treatment are transferred to the court due to lack of independence and competence to investigate such acts by investigative bodies in Mongolia.<sup>45</sup>

Subcommittee on prevention of torture is concerned that, in 2014, the special investigative unit, previously located within the General Prosecutor's Office, was disbanded and its functions transferred to the Independent Authority against Corruption. The Subcommittee is concerned that the current model, whereby acts of torture and ill-treatment allegedly committed by public officials are now being investigated by public officials themselves, is more akin to a form of peer investigation, lacking in independence and impartiality and thus failing to ensure effective oversight. The Subcommittee is also concerned that this change has made it less likely that effective investigations will take place, thereby reducing

<sup>43</sup> Mongolia, Монгол Улсын Хүний эрхийн Үндэсний Комиссын тухай хууль [The law on National Human Rights Commission], 23 January 2023, <https://legalinfo.mn/mn/detail?lawid=15152> (In Mongolian).

<sup>44</sup> Mongolia, Хүний эрхийн Үндэсний Комиссын цахим хуудас [official website of National Human Rights Commission], <https://nhrcm.gov.mn/news/57/5> (In Mongolian).

<sup>45</sup> Mongolia, Монгол Улсын Прокурорын Ерөнхий Газар [The National Prosecutor General's Office of Mongolia], "Гэмт хэргийн талаарх гомдол, мэдээлэл өмнөх оны мөн үетэй харьцуулахад 4.5 хувиар өссөн байна" ["Complaints and reports of crime increased by 4.5 percent compared to the same period last year"], 18 July 2023, <https://prokuror.mn/post/111337>

the number of criminal cases brought and making it less likely that complaints will be lodged, which, taken together, increases the risk of impunity.<sup>46</sup>

The UN Special Rapporteur on torture recommended to all states that complaints about torture or other ill-treatment should be dealt with immediately and should be investigated by an independent authority with no connection to that which is investigating or prosecuting the case against the alleged victim. They emphasized that to establish, preferably on a statutory basis, mechanisms with full investigatory powers that are institutionally and functionally independent is as a useful tool in the effort to combat torture and implement the rule of law.<sup>47</sup> In addition, Amnesty International calls on Mongolia to fully implement the recommendations by the UN Universal Periodic Review.<sup>48</sup>

Amnesty International welcomes Mongolia becoming one of the initiative countries of the Ljubljana-Hague Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity, War Crimes and other International Crimes, also known as the Mutual Legal Assistance Treaty (MLA) in 2023. This treaty is an opportunity to deliver a step change in the prosecution of these crimes and the ability to deliver justice, truth and reparation to victims.<sup>49</sup>

#### RECOMMENDATIONS:

1. Establish or designate investigative bodies with independent statutory authority and competence to investigate acts of torture and other ill-treatment, in line with minimum standards of impartiality, promptness, effectiveness, and public scrutiny. This should be achieved through periodic public reporting on complaints received, ongoing investigations, and outcomes. Ensure the investigative mechanism must be different and separate from the current National Preventive Mechanism of Torture.
2. Adopt the Mutual Legal Assistance Treaty without reservation.

<sup>46</sup> UN, Report of the Subcommittee, 19 December 2018, UN Doc. CAT/OP/MNG/1.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FOP%2FMNG%2F1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FOP%2FMNG%2F1&Lang=en)

<sup>47</sup> UN, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition), 29 June 2022, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>, p.9, para 39.

<sup>48</sup> UN, Human Rights Council, 22 February–19 March 2021, Report of the Working Group on the Universal Periodic Review, <https://documents.un.org/doc/undoc/gen/g20/356/00/pdf/g2035600.pdf?token=KFE1E55jr8Xz0e4lcM&fe=true>

<sup>49</sup> Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes (adopted on 26 May 2023, not yet entered into force at the time of writing), <https://www.gov.si/assets/ministrstva/MZEZ/projekti/MLA-pobuda/konvencija-dokoncna/The-Ljubljana-The-Hague-Convention-Final-English.pdf>, Article 8.

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