



MONGOLIA: TIME TO MOVE FROM PROMISES TO ACTIONS

PRESS RELEASE

NOVEMBER 14, 2018

ULAANBAATAR, MONGOLIA

Over the last two days, 12-13 November 2018, the Asian Forum for Human Rights and Development (FORUM-ASIA) and its members from Mongolia, the Centre for Human Rights and Development (CHRD) and Globe International (GI), organised a joint consultation on National Human Rights Defenders “Advancing Human Rights and Development” in the country. The consultation brought together various stakeholders in addressing human rights issues, including human rights organisations, human rights defenders from both Ulaanbaatar and rural areas, as well as representative from the Ministry of Foreign Affairs and the National Human Rights Commission. A Malaysian lawyer and freedom of expression expert also joined to share his experience and insights.

During the two-day discussion, participants concluded that human rights defenders in Mongolia are still vulnerable to threats, intimidation, and harassment from both state and non-state actor particularly foreign and domestic companies operating in rural areas. Human rights defenders are an integral part of a democracy in any country and have important role to ensuring that development is sustainable, inclusive and non-discriminatory in Mongolia. Whether they are environmental activists, journalists, herders, students, trade unionists or of any other profession, they should be able to express themselves freely and carry out their peaceful work without fear of reprisal. In this regard, the state plays a crucial role to create an enabling environment by; repealing repressive laws and provisions; enacting pro-human rights laws and policies in line with international human rights standards; and ensuring that such laws and policies are effectively implemented equally without any discrimination.

There are three main areas of concern, which came up during this year’s consultation¹, being: **(i)** curtailing of freedom of expression, in particular through the proposed amendment on the defamation clause in the Criminal Code and Libel clause of the Law on Administrative offence²; **(ii)** developing effective law on protection of human rights defenders and how to enact the law and **(iii)** disruptive business activities, in particular mining and large development project, and their adverse human rights impact. While some progress has been made over the past year when it comes to these areas of concern, in other instances there has been actually been regress. While there is a positive progress on drafting the law on human rights defenders protection under the leadership of the Mongolian National Human Rights Commission (MNHRC) in consultation with CSOs, negative impacts of mining and agriculture companies’ operation have been intensified especially for local communities and herders.

¹ FORUM-ASIA together with its members and partners have been organizing an annual national consultation on HRDs since 2015, and this is the 4th consultation. The past three consultations have resulted in concrete steps and recommendation on human rights issues particularly how to develop a strong network of human rights defenders and how to create enabling environment for the work of defenders in Mongolia.

² The Law on Administrative Offences was enforced since July in 2017. Since then over 230 journalists, media staffs and social media users have been charged under article 6.21 of the Law.

Human rights defenders including journalists strongly oppose the inclusion of defamation as a criminal offence and the Libel clause under the Law on Administrative Offences. Such a provision will have a chilling effect on society and will stifle freedom of expression. If the proposed amendment is enforced, this would be a step backward by the Government. The right to freedom of expression is guaranteed for everyone under the Constitution of Mongolia and international human rights standards. Human rights defenders, including journalists, have an important role in holding the Government accountable, and the State must ensure they are able to do so. Participants of the consultation also encourage the Government to review all legislation that can be used to stifle freedom of expression, in particular the proposed amendment on defamation to the Criminal Code, and to ensure the active participation of all stakeholders in the amendment process.

During the discussion on the draft human rights defenders protection law, the network of human rights defenders in Mongolia welcomed efforts made by key human rights actors in the country, such as the Mongolia National Human Rights Commission (MNHRC) and the human rights sub-committee of Parliament. However, participants to the consultation believe that some provisions in the latest draft law can still be strengthened to ensure substantive and holistic protection of human rights defenders in Mongolia, including the clearer definition of human rights defenders, the role they have in the protection committee as well as an inclusion of local authorities' protection obligation. Such a review is important to ensure the inclusivity of the law, and effective implementation.

Participants also pointed out that business operations, such as mining, take place without effective control mechanisms, while environmental defenders and herders continue to be affected by business operation. In this context, participants noted that since the United Nations Working Group on Business and Human Rights visit in 2012, there has been no meaningful progress from the Government to develop a National Action Plan (NAP) on Business and Human Rights. The NAP should articulate the State's priorities and actions to protect against the adverse impact of business operations, as well as clarify how businesses should discharge their responsibilities to respect human rights. The Government should ensure that the NAP is based on international human rights standards, in conformity with the United Nations Guiding Principles on Business and Human Rights as well as covering key issues such as mining companies' practices, land distribution and labor rights. It should take into account the inputs from civil society organisations and affected communities through a genuine open and consultative process.

Some progress on human rights has been made over the past year in Mongolia. However, human rights defenders are still subject to intimidation and harassment. As a champion of democracy in East Asia, the Government of Mongolia needs to play a proactive role in the protection of human rights defenders, by creating an enabling legal environment and ensuring the effective implementation of laws and policies. By doing so, the protection and fulfilment of human rights may fully be achieved in the country.

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