

Unofficial translation

Draft Law

FREEDOM TO HOLD PEACEFUL DEMONSTRATIONS AND GATHERINGS

(revised)

ONE. General provisions

1. Purpose of the law

1.1. The purpose of this law is regulate relations related to ensuring the freedom to organize and participate in peaceful demonstrations and gatherings as stipulated in the Constitution of Mongolia, to protect public order and to ensure public safety during demonstrations and gatherings

2. Legislation on the procedure for demonstrations and gatherings

2.1. Legislation on freedom to hold demonstrations and gatherings consists of the Constitution of Mongolia, this law and other legislative acts issued in accordance with these laws.

2.2. If an international treaty to which Mongolia is a party specifies otherwise than this law, the provisions of the international treaty shall prevail.

3. Scope of application of the law

3.1. This law does not apply to the following relations:

- 3.1.1. honorary and ceremonial parades and gatherings organized by competent government organizations;
- 3.1.2. sports, cultural, arts activities, trade fairs, business activities and other equivalent events organized by individuals and legal entities in designated facilities and public places;
- 3.1.3. conferences, meetings, discussions, open information and service provision events and other equivalent events organized by government organizations and public law entities;
- 3.1.4. conferences and meetings organized by political parties, coalitions and election candidates with citizens, voters, and by non-governmental organizations with members and supporters.

4. Principles to be adhered in the activities related to demonstrations and gatherings

4.1. In addition to the provisions of the Constitution of Mongolia, the following principles shall be followed in the exercise of the right to hold peaceful demonstrations and gatherings and the right to freedom of expression and opinion by way of peaceful demonstrations and gatherings, as well as in the protection of social order and public safety by law enforcement agencies:

- 4.1.1. accept diversity of opinions;
- 4.1.2. ensure national unity;
- 4.1.3. respect the rights, freedoms, dignity and integrity of others;
- 4.1.4. be free from violence;
- 4.1.5. information is open and transparent.

Chapter two. Freedom to hold peaceful demonstrations and gatherings

5. Peaceful demonstrations and gatherings, and the right to organize and participate in one

- 5.1. Citizens have the right to lawfully organize and participate in peaceful demonstrations and gatherings (hereinafter referred to as “demonstrations and gatherings”) in public or private areas with the purpose of delivering their opinions on certain issues to the public and government organizations.
- 5.2. “Gathering” is understood as an activity of two or more people with shared purpose gathering on public or private land and expressing their opinion, suggestions and demands.
- 5.3. “Demonstration” is understood as an activity of two or more people marching in an organized manner through urban streets and squares and expressing their opinion, suggestions and demands.
- 5.4. “Hunger strike” is understood as the act of individually or collectively expressing one's views on specific issues by deliberately withholding food from one's body in public or private property, and announcing that action.
- 5.5. “Sit-in” is understood as the act of individually or collectively expressing views, opinions, and demands on specific issues in public or private property.
- 5.6. A demonstration or gathering organized in a manner that poses a risk to human life, health, safety, or property is understood to be non-peaceful.
- 5.7. Engaging in civil disobedience is understood as a peaceful demonstration or gathering even when it creates an uncomfortable yet tolerable situation for others.
- 5.8. Demonstration and gathering may arise spontaneously when citizens assemble in an immediate response to a current event and the police organization in charge of the territory shall organize activities aimed at fighting crimes and offences, protecting public order and ensuring public safety during such demonstrations and gatherings within its legal mandates.
- 5.9. Unless otherwise provided in laws and international agreements of Mongolia, foreign citizens and stateless persons have the right to participate in lawfully organized demonstrations and gatherings.

6. Guarantees of the right to gatherings and demonstrations and the right to organize and participate in one

- 6.1. Individuals and legal entities are obliged to respect and not interfere with the citizen's freedom to organize and participate in demonstrations and gatherings.
- 6.2. It is prohibited to prosecute, restrict the freedom of, or discriminate against anyone for organizing or participating in lawfully organized demonstrations and gatherings.
- 6.3. Except for situations specified in law, it is prohibited to deliberately obstruct demonstrations and gatherings, incite disorder, or forcibly disperse lawfully organized demonstrations and gatherings.
- 6.4. The right to organize, as well as to participate in, demonstrations and gatherings on the same issue at the same time but in different locations, or at the same location but on different issues shall not be restricted.
- 6.5. It is prohibited to approve and enforce administrative normative acts that restrict organization and participation in peaceful demonstrations and gatherings.

- 6.6. It is prohibited to force others into organizing or participating in demonstrations and gatherings by offering money or by coercion.
- 6.7. Any restrictions on peaceful demonstrations and gatherings shall be consistent with international human rights norms.

Chapter three. Restrictions on organizing demonstrations and gatherings; rights and responsibilities of organizers and participants

7. Place, purpose and content restriction for organizing demonstrations and gatherings

7.1. It is prohibited to organize or participate in demonstrations and gatherings in the following places:

- 7.1.1. Mongolia's border strip;
- 7.1.2. airports, train stations and stops;
- 7.1.3. medical organization;
- 7.1.4. State House and its territory;
- 7.1.5. prison and its security strip;
- 7.1.6. public facility of heightened importance and their protection strip;
- 7.1.7. land under special state protection.

7.2. An individual, a legal entity, or an organization without a legal persona has the right to organize demonstrations and gatherings in places other than those specified in Article 7.1 of this law refraining from undertaking any actions aimed at disrupting the normal operations of the [affected] organization.

7.3. If case of a nationwide or a partial state of emergency or war was declared, or a disaster, dangerous phenomenon or a catastrophic incident occurred, it can be prohibited by law to organize demonstrations and gatherings in that territory until the named cause is eliminated.

7.4. Article 7.3 does not apply to demonstrations and gatherings related to the goal of opposing the cause of declaring a war and/ or emergency situation, or to eliminating the consequences of disaster.

7.5. It is prohibited to organize or participate in demonstrations and gatherings with the following purpose:

- 7.5.1. promote war, discriminate, sabotage, call for cout d'etat;
- 7.5.2. harm national security and public order by inciting disorder.

7.6. If a situation arises that fits the purpose and content specified in article 7.5 of this law arises during a demonstration or gathering organized for purposes other than those prohibited by law, it is prohibited to continue this demonstration or gathering.

7.7. It is prohibited to demand someone else to declare a hunger strikes in public places.

7.8. In cases other than when demonstrations and gatherings have not stopped on their own and have carried on, it is prohibited to organize demonstrations and gathering during the night-time.*

Note: 'night-time' mentioned in article 7.8 of this law refers to description of article 88.1 of the Labor Law

8. Registration of demonstrations and gatherings and other limitations

- 8.1. An individual who, due to mental illness, is unable to realize the true nature and danger of his actions, to control his actions, and if prescribed by law, a special government employee may be restricted from organizing and participating in demonstrations and gatherings.
- 8.2. Decisions and measures to limit the freedom of expression and the freedom of peaceful assembly should meet the following requirements:
 - 8.2.1. be issued in accordance with the grounds and procedures prescribed in the law;
 - 8.2.2. be aimed at protecting national security, social order, public morality, public health, or human rights and freedoms, and dignity;
 - 8.2.3. be necessarily suitable for achieving the goals specified in Article 8.2.2 of this law
- 8.3. A demonstration / gathering on the roadway needs a prior registration and a response.
- 8.4. A demonstration/ gathering organized in the place specified in article 8.3 of this law shall be organized upon delivering a written notification and its registration at least 72 hours in advance.
- 8.5. The police organization shall receive the notification specified in article 8.4 of this law and issue within 1 working day a response specifying whether or not it has been registered.

9. Process of organizing and participating in demonstrations and gatherings

- 9.1. A citizen of Mongolia has the right to organize and participate in demonstrations and gatherings, and it is prohibited to limit this right except as provided by law.
- 9.2. A demonstration and a gathering organized in places other than those specified in article 8.3 of this law shall be organized upon delivering a notification to the territorial police at least 72 hours in the local area and 48 hours in the capital city.
- 9.3. An advance notification specified in this law may not be required for demonstration/ gathering not prohibited by laws with less than 30 participants.
- 9.4. Article 9.2 of this law does not apply to expression of opinion in public places in the form of hunger strikes or sit-in in public places and also to cases specified in Article 5.4 of this law.
- 9.5. The notification specified in article 9.2 of this law should contain the following information:
 - 9.5.1. the purpose,
 - 9.5.2. the time of starting and ending,
 - 9.5.3. estimated number of participants,
 - 9.5.4. equipment to be used,
 - 9.5.5. the streets, directions and locations of gathering and marching,
 - 9.5.6. the name and address of the organizer, and contact number.
- 9.6. When the notification about organizing a demonstration or gathering meeting is received by the competent employee of the organization specified in Article 9.2 of this law it is considered as delivered.

- 9.7. The police organization that received the notification specified in Article 9.2 of this law is responsible for ensuring the right of the organizers and the participants to express their opinions in public places, regulating traffic in the specified area, and ensuring public safety and social order.
- 9.8. The police organization may, upon receiving a notification about organizing a demonstration or a gathering, further clarify the necessary additional information from the organizers, and may introduce changes to a place or a time of gathering upon reaching mutual agreement.
- 9.9. A demonstration/ gathering organizer may cancel the event at any time between delivery of a notification and an event starting, in which case they should notify the police.
- 9.10. A demonstration or gathering organized in the place specified in article 8.1 of this law shall be organized upon delivering a written notification and its registration at least 48 hours in advance.
- 9.11. The police organization shall inform in advance and in any possible ways the residents and organizations located in the area about the the demonstration or gathering being organized.

Note: - 'territorial police' means the aimag police department in provinces and the Capital City Police Department in the capital cit.

10. Responsibilities of organizers and participants of demonstrations and gatherings

- 10.1. When organizing a demonstration and gathering, an organizer vested with the responsibility of implementing article 10.3 of this law during the event shall be officially appointed.
- 10.2. An individual who initiated the demonstration or gathering and who confirmed the notification shall be considered the organizer. The initiator can be the organizer.
- 10.3. Demonstration/ gathering organizers and participants have the right to seek professional legal assistance from lawyers and/or legal professionals.
- 10.4. The provision of professional professional assistance specified in Section 10.3 of this law shall be regulated by the relevant laws.
- 10.5. The organizer shall take the following measures prior to a demonstrations/gathering taking place:
- 10.5.1. read legal and security recommendations related to organizing demonstrations/gatherings;
 - 10.5.2. remind participants, in advance, of the requirement specified in article 10.6 of this law;
 - 10.5.3. if information is available about the conditions specified in article 10.6 of this law are not being met, immediately notify the police and submit a proposal of necessary measures to be taken.
- 10.6. A participant of a demonstration/ gathering shall undertake the following duties:
- 10.6.1. help provide social order and public safety in places of demonstration/ gatherings;
 - 10.6.2. avoid causing harm to public land, historical and cultural heritage, other people's property
 - 10.6.3. not to carry weapons, things that can be used as weapons, chemical and dangerous substances, explosives, or animals that may pose a threat to the surrounding environment;
 - 10.6.4. not to use force in any form during a demonstration/gathering;
 - 10.6.5. not to use alcohol, narcotic or psychoactive substancesu ;
 - 10.6.6. not to involve young children, except for those directly related to the purpose of organizing the demonstration/meeting;

10.6.7. not to offer money, intimidate, put pressure or otherwise coerce in order to have others participate in demonstrations/ gatherings;

10.6.8. not to interfere with traffic;

10.6.9. obtain permission from the police if facilities to be used during the demonstration/ gathering;

Note: - 'facilities' in this article refers to ger, tent, vehicle, unmanned equipment, electric generator, etc

Chapter 4. Ensuring participant safety and having order maintained

11. Protection of demonstrations and gatherings and their participants

11.1. The police organization is responsible for ensuring the safety of the organizers and participating citizens during demonstrations and gatherings organized in accordance with the procedures prescribed in this law.

11.2. The safety of the participants will be ensured, regardless of whether the demonstration/ meeting referred to in Articles 5.8 and 9.3 has notified the authorities in advance or whether there is an organizer.

11.3. The police shall not undertake activities aimed at interfering with the ability of the citizens expressing their opinions within the sight and sound of those whom they address their concerns.

11.4. The police officer shall be informed about the participants of the demonstration/gathering, be sensitive to the diversity among participants and act accordingly, and maintain an communication with the the organizers and participants of the demonstration/ gathering.

11.5. When a hunger strike is declared, a team of specialized doctors and nurses will be formed in accordance with the schedule authorized by the head of the territorial Health Department to examine and monitor the health of the person on hunger strike.

11.6. The police organization will approve the plan for large gatherings, which should includes specific measures to ensure the safety of vulnerable groups such as children, people with disabilities, and the elderly during demonstrations/ gatherings.

11.7. If established by the assessment of the health organization that a serious damage to life or health of the person on hunger strike is to happen, the head of the territorial Health Department will deliver the decision to stop the hunger strike and submit the person to compulsory treatment, and organize the transportation to the health facility.

11.8. Regulation concerning delivery of health care and services during hunger strike shall be approved by the Minister of Health.

11.9. Law enforcement and special duty organizations are prohibited to illegally use the personal information of citizens who participated in demonstrations and gatherings, to track them down, and to use them against the citizens' desire to hold a demonstration/gathering.

12. Forced dispersal

12.1. If the threats describe in this law inevitably arise during a demonstration/ gathering, the head of the territorial police organization shall make the decision to forcibly disperse it and immediately inform the National Human Rights Commission of Mongolia.

- 12.2. Imminent conditions for forced dispersal is when a situation specified in article 7.5 of this law has arisen, or the risk factors or conditions conducive to it have formed during a demonstration or a gathering, which has been confirmed by information and evidence from the national security or law enforcement organizations.
- 12.3. Organizing a demonstration/ gathering prohibited by Article 7.1 and 7.2 of this law, formation of a prohibited situation during an un-prohibited demonstration/ gathering will serve as a ground for forced dispersal.
- 12.4. Use of violence causing damage to other's health or property by one person or a group of persons during a demonstration/ gathering is not a ground for deeming the entire demonstration or meeting as un-peaceful and to forcibly disperse it.
- 12.5. Article 12.3 of this law does not apply to expression of opinion in the form of a hunger strike or a sit-in in a public place or to the situation referred to in Article 5.8.
- 12.6. The decision to forcibly disperse shall be delivered in advance to demonstrations/ gatherings and their participants in any possible manner.
- 12.7. After the decision to forcibly disperse has been announced, forced dispersal shall take place after it had been clearly announced two times through loudspeakers mentioning specific timeline.
- 12.8. The right to legal assistance shall be guaranteed during forced dispersal or during taking legally prescribed actions by competent authorities against persons who committed violent acts.
- 12.9. If there is a shortage of police force and equipment to forcibly disperse a demonstration or a gathering by means prescribed by law, other organizations with special functions of ensuring the national security of Mongolia may be involved.
- 12.10. Regulations concerning collaboration of organizations charged with the special tasks of ensuring Mongolia's national security referred to in the Article 12.9 of this law shall be approved by the Government of Mongolia.
- 12.11. The process of forced dispersal shall be documented using audio, video, audio-visual recordings.
- 12.12. If the police organization forcibly dispersed a demonstration/ gathering, the public shall be informed immediately after the implementation of the said measure.

13. Transparency of demonstration/gathering process and redress

- 13.1. A citizen has the right to submit complaints and information related to the procedure for demonstrations and gatherings to competent government organization, officials, the National Human Rights Commission of Mongolia, and the court.
- 13.2. An organizer who has received a decision refusing to register a demonstration/ gathering, considers that refusal to be unlawful may file a complaint with the higher police authority within 3 days upon receiving the decision.
- 13.3. An official who received the complaint referred to in the Article 13.2 shall review the complaint and deliver a decision within 3 working days upon receipt.
- 13.4. If the organizer does not agree with the decision delivered by the higher standing administrative organization, s/he has a right to file a complaint with the court within 3 working days upon receiving the decision.

13.5. it is prohibited to undertake any action or attempt aimed to obstruct human rights defenders, independent observers and independent monitorers, as well as observation, monitoring, provision of public information or legal assistance during the demonstration/ gathering.

14. Liabilities for violating the law

14.1. If a breach committed by an official does not constitute a crime, liabilities specified in the Civil Service Law will be applied.

14.2. Individuals and legal entities who breached this law will be a subject to liabilities specified in the Criminal Law or Law on Offences.