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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the situation of human rights defenders on his visit to Mongolia

Comments by the State*

* The present document is being issued without formal editing.

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I. Comments on paragraph 13 of the report of the Special Rapporteur

1. In relation to para 13 of the draft report which concerns the position of the Ministry of Justice and Home Affairs on the Human rights defenders bill, according to the article 15.2 of the Law on Legislation which establishes that the President and members of the Parliament may introduce the concept and text of the drafted law to the Minister in charge of justice for his/her perusal. The Minister, in this case, shall make recommendations.
2. Based on this provision, the Ministry has made its assessment and comments on the draft Law on Human right defenders which was drafted by MP D.Tsogtbaatar. These views and comments which have been expressed on the draft do not imply that the Ministry denounces the draft. The law still allows that MP D.Tsogtbaatar has full right and authority to submit the draft to the Parliament.
3. In this connection, the Ministry would like to reaffirm that the Government is committed to guarantee the rights of human rights defenders and promote their activities. The National Human Rights Commission is an institution mandated with the promotion and protection of human rights and freedoms which are provided in the Constitution of Mongolia, Mongolian laws and international treaties which Mongolia has ratified. Therefore the Ministry is of the view that the new law might duplicate these functions and lead to public expenditure increase.
4. More specifically, Article 10 of the draft law establishes the mandate and structure of the Committee on the Protection of Human Rights Defenders. The article specifies that the Committee shall function independently and autonomously at the National Human Rights Commission, yet the Chief of the Committee shall be Chief Commissioner of National Human Rights Commission. Article 12.1.4 also says that the committee shall receive any information and complaint related to the violation of human rights of human rights defenders and shall transfer them to the National Human Rights Commission for its solution. The Ministry of Justice and Home Affairs sees that here is clear duplication, blurred division of responsibilities and creation of additional procedural steps.
5. The Government of Mongolia has revised the Law on the National Human Right Commission and the revised law is now at the parliament debate. Guaranteeing the rights of human rights defenders could be stipulated in the revised law of the NHRC e.g. by holding one Commissioner responsible for the rights of human rights defenders.

II. Comments on paragraphs 25-27 of the report of the Special Rapporteur

6. For paras 25-27, yes indeed the Parliament passed on 27 March 2019 new amendments to the Law on the Legal Status Judges, the Law on Prosecutor's Office and the Anti-Corruption Law which allows the National Security Council to make recommendations to revoke judges and prosecutors.
7. However, the Parliament passed the Constitutional amendments on 14 November 2019. The amendments have been made to further strengthen independence of judiciary.
8. The Constitutional amendments require that the relevant laws and provisions should be aligned and amended. In addition, as it was established in the Government Action Plan 2016-2020 and the Guideline for improving legislative acts which was passed by the Parliament resolution 11 of 2017, now effective the Law on the Legal status of Judges, the Law on the Court administration and the Law on the Legal status of citizens' representatives at courts shall be revised.
9. Therefore, in response to the requirements and the goals specified above, the Government is drafting the Law on the Courts and, in this context, the provisions of revoking judges and prosecutors at the recommendation of the National Security Council are being revisited.