



## ТАЙВАН ЖАГСААЛ, ЦУГЛААНЫ ҮЕИЙН ХҮНИЙ ЭРХ ЧӨЛӨӨНИЙ ХЯЗГААРЛАЛТАД ХИЙСЭН ДҮН ШИНЖИЛГЭЭ

### ANALYSIS OF RESTRICTIONS ON THE RIGHT OF PEACEFUL ASSEMBLY

#### Эрдэнэбатын Хишигбайгаль\*

Дотоод хэргийн их сургуулийн Цагдаагийн сургуулийн Эрүүгийн эрх зүй, криминологийн тэнхимийн ахлах багш, цагдаагийн ахмад

**Pol. Capt. Khishigbaigali Erdenebat**, Senior Lecturer, Department of Criminal Law and Criminology, Police School, University of Internal Affairs

\*хариуцлагатай зохиогч: khishigbaigal138@gmail.com

**Хураангуй:** Нийгмийн гэрээний онол нь хувь хүмүүс нийгмийг хамтран байгуулахад зөвшилцдөг бөгөөд ингэснээр харилцан хамгаалалт, нийгмийн дэг журмыг хангах үүднээс эрх чөлөөнд тодорхой хязгаарлалт тавихыг зөвшөөрдөг гэж үздэг. Энэхүү үндсэн ойлголт нь төрийн эрх мэдлийн хууль ёсны байдал чухал болохыг онцолж, энэхүү хүрээ нь тайван жагсаал, цуглаан хийх эрхэд тавигдсан хязгаарлалтыг судлахад онцгой ач холбогдолтой бөгөөд хувь хүний эрх чөлөө, нийгмийн дэг журмын тэнцвэрийн асуудлыг хөндсөн болно.

Энэхүү судалгаагаар хүний эрхийн хязгаарлалтууд Олон Улсын болон Үндэсний хууль эрх зүйн хүрээнд хэрхэн илэрч байгааг, ялангуяа Монгол Улсад хэрхэн хэрэгжиж байгааг судаллаа. Монголын үндэсний хэм хэмжээ нь Иргэний болон улс төрийн эрхийн олон улсын пакт зэрэг Олон Улсын стандартуудтай нийцэж байгаа эсэхийг үнэлсэн болно. Монгол дахь хүний эрх, эрх чөлөөг судалсан тайлангуудыг дүгнэн, тус улсын хууль эрх зүйн практик нь олон улсын хуулиар баталгаажсан эрхүүдийг хүндэтгэж байгаа эсэхийг тодорхойлохыг зорьсон.

Үндсэндээ энэхүү судалгаа нь төрийн эрх мэдэл ба хувь хүний эрх чөлөөний хоорондох зөрчилдөөн тодотгож, төр засаг нийгмийн гэрээний онолын дагуу үүргээ биелүүлэх шаардлагатайг онцолдог. Төрийн хууль ёсны байдал нь эдгээр эрхийг хамгаалах чадварт тулгуурладаг бөгөөд нийгмийн дэг журмыг хадгалах үүрэгтэй тул өнөөгийн засаглалын асуудлыг ойлгоход энэхүү дүн шинжилгээ маш чухал юм.

**Abstract:** The theory of social contract suggests that individuals allow the formation of society and accept limitations on their freedom in order to ensure protection and social order. This fundamental idea shows that the legitimacy of government authority comes from the consent of the people, which is crucial when discussing the right to peaceful assembly and the limitations on freedom. In Mongolia, over the past five years, there have been about 1,200 protests and demonstrations, with 88.5% of them being unregistered. The law requires registration for such events, which raises questions about whether citizens can effectively exercise their rights and freedoms.

The limitations on the right to assembly and freedom are reflected in both international and national legal systems. The significance of this study lies in examining how these limitations are addressed in international standards, such as the International Covenant on Civil and Political Rights, and how they are implemented in Mongolia,

using both quantitative and qualitative research methods to determine the extent of these limitations and whether they align with international agreements.

**Түлхүүр үгс:** Тайван цуглаан, хязгаарлалт, үндэсний аюулгүй байдал, олон нийтийн аюулгүй байдал, пропорциональ байдал.

**Keywords:** Peaceful assembly, restrictions, national security, public safety, proportionality.

### Introduction

The freedom to express one's thoughts and opinions manifests through the rights to speak, publish, and hold peaceful assemblies and demonstrations. In a democratic society, it is a fundamental characteristic that individuals can hold and express their own opinions without facing any responsibility for doing so.

Mongolia has been building a democratic system for over 30 years, but the question remains whether it has successfully ensured the rights and freedoms of its citizens, particularly the right to hold assemblies and demonstrations. In recent years, the number of protests and demonstrations in Ulaanbaatar has consistently increased, leading to conflicts between protesters and law enforcement. These incidents have been widely reported on social media, highlighting instances where law enforcement has used force and coercive measures. This situation has led to public criticism, suggesting that expressing opinions and participating in demonstrations puts citizens at risk of legal trouble and conflict, which can intimidate people from expressing their views.

The state's role in protecting the right to peaceful assembly and freedom is crucial. Limitations on these rights can be imposed only under specific conditions

that align with international human rights standards, such as national security, public order, public health, and the protection of others' rights and freedoms. These limitations must be legally justified, necessary, and proportionate to the intended goal. If the harm caused by restrictions outweighs the benefits of the assembly, such restrictions are considered disproportionate and not permissible. Therefore, analyzing the level of restrictions on the right to assembly and freedom over the past five years and determining whether these restrictions comply with international agreements is essential.

Scholars and researchers such as D. Sunjid, O. Monkhsaikhon, and N. Monkhzul have studied the limitations on human rights, but this article provides a detailed examination of the right to hold assemblies and demonstrations, making it innovative in its focus.

### Theory and Principles of the Freedom to Peaceful Assembly

"The theory of social contract that emerged during the Enlightenment was articulated by philosophers such as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. Each thinker presented different views on human nature, the state of nature, and the implications of the social contract." (Rousseau, 1762)

Types	Thomas Hobbes (Morris, 2018).	John Locke (Bookman, 2018).	Jean-Jacques Rousseau (Waldron, 2018)
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The nature of freedom	Although freedom is seen as the ability to act according to one's will, in a natural condition, this freedom leads to chaos and violence. To avoid this, individuals establish a social contract and transfer their rights to absolute sovereignty in order to ensure security and order. For Hobbes, true freedom exists under the protection of a powerful government, even if certain freedoms are relinquished.	He believes that people in a natural state are free and equal but are bound by Natural Law to respect each other's rights to life, liberty, and property. When establishing their government through a social contract, individuals agree to protect these rights rather than surrender them entirely. Locke argued about the limited powers of government and emphasized that citizens have the right to revolt against any authority that fails to protect their natural interests.	He proposed a theory of freedom that emphasized collective will and equality. He believed that for true freedom to exist, individuals must fully surrender their rights to the "general will." This means that personal interests must align with the common good, and legitimate authority arises from this collective agreement. Rousseau criticized representative governments, arguing that they often betray the general will. Therefore, individuals achieve true freedom by directly participating in governance.
The role of the government	The government arises from the social contract in which individuals collectively agree to submit to an absolute sovereign authority. This sovereign has the right to protect citizens from natural dangers, implement laws, and maintain order.	The primary role of the government is to protect individual rights. It is believed that a government that fails to uphold the rights of its citizens can be overthrown.	It embodies a participatory governance that actively expresses the common will of the citizens. For governments to be legitimate, they must reflect this collective will.
On restrictions on freedom of assembly	In cases where peace and security are threatened, it is necessary to limit assemblies. The primary purpose of the government is to maintain order and prevent chaos, which serves as a basis for restricting individual freedoms, particularly the right to assemble. The sovereign authority determines what poses a threat to civil tranquility, and individuals must submit to this authority for the sake of collective security.	He viewed the right to assemble peacefully as a natural right. While he acknowledged that some restrictions are necessary to maintain public order, he emphasized that any limitations should not violate fundamental rights. Locke believed that citizens have the right to revolt against a government that unjustly restricts their freedoms, particularly the right to assembly.	He viewed peaceful assembly as an expression of the general will and collective sovereignty. He believed that individuals should have the freedom to assemble and demonstrate as a means to express their opinions and participate in governance. However, he emphasized that assemblies must align with the common good, and if they do not reflect the general will, they could be deemed illegal. Rousseau's focus on collective participation demonstrates that while he supports the right to assemble, it must serve the interests of society as a whole.

Table 1. (Comparison of scholars' views on social contract theory)

When comparing the ideologies of thinkers, specific issues arise in the the social contract theory from ancient relationship between individuals and the

state. The social contract theory suggests that the moral and political responsibilities of individuals depend on their agreements and arrangements within the society they inhabit.

The social contract is crucial as it establishes authorities capable of regulating individual freedoms and rights within a social system, allowing for limitations and interventions. This necessity for restrictions and regulations is primarily linked to the proper functioning of the social system. Through the lens of social contract theory, obedience to government ensures conditions for peaceful coexistence among individuals in society (Locke, 1948).

The intersection of the right to peaceful assembly and restrictions on that right highlights the complex relationship between individual rights and state power. While the government has a duty to maintain order, it must do so without infringing upon fundamental individual rights within a democratic framework. Understanding this balance is essential for evaluating the legality of state actions regarding peaceful assembly in modern society.

### **The Current State of Protests and Demonstrations in Mongolia**

Protests and demonstrations are essential tools for exercising economic, social, and cultural rights in Mongolia.

Over the past five years, the objectives of these events have included:

1. Opposition to sudden government decisions, such as price increases.
2. Concerns about natural resource extraction.
3. Protests against decisions made by state officials.
4. Expressing opinions related to international events, such as wars.
5. Disputes over election results.
6. Addressing personal issues.

In the capital, protests often focus on opposing decisions made by the government and administrative bodies. In rural areas, demonstrations are frequently organized to protect the environment and maintain ecological balance.

Notable nationwide protests include the 2022 demonstrations against inflation and rising commodity prices, and the "Name and Shame" protests against coal theft, which lasted from December 2, 2022, to January 28, 2023.

Internationally, the right to peaceful assembly is recognized and protected under national laws in most countries. Protests can take various forms, including mobile or stationary, silent or vocal, and can occur in physical or digital spaces. Regardless of their form, they are protected under Article 21 of the International Covenant on Civil and Political Rights.

№	Year	Total Number of Protests and Demonstrations	Of Which:			
			Registered	Unregistered	Protests	Demonstrations
1	2020	255	16	239	44	211
2	2021	214	0	214	25	189
3	2022	241	44	197	31	210
4	2023	254	44	210	56	198
5	2024	236	34	202	32	204
Total		1200	138	1062	188	1012

Table 2. (The Number of Protests and Demonstrations Organized in Mongolia Over the Past 5 years)

Over the past five years in Mongolia, a total of 1,200 protests, demonstrations, and resistance events have been organized. Of these: registered 138 (11.5%), unregistered 1,062 (88.5%),



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protests 188 (15.6%), demonstrations 1,012 (84.3%)

Regarding the organization of protests and demonstrations, two systems are recognized internationally: the permission-based system and the notification-based system.

The permission-based system requires organizers to obtain approval from state authorities to hold protests or demonstrations. The notification-based system allows organizers to notify authorities about the time, location, and purpose of the event, thereby granting the right to assemble. In Mongolia, although the Law on Procedures for Organizing Demonstrations and Gatherings was amended in 2005 to transition from a permission-based system to a notification-based system, authorities can still deny registration. Thus, the permission-based system remains effectively in place. Article 14 of this law mandates the dispersal of unregistered protests or demonstrations.

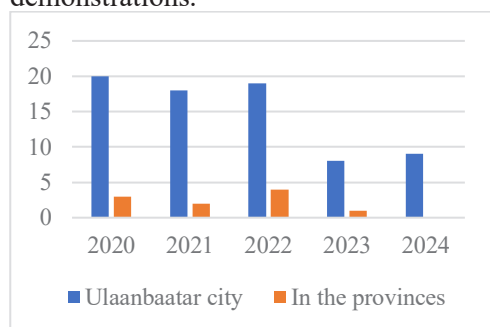


Chart 1. (The Number of Protests and Demonstrations Organized in Mongolia Over the Past 5 years)

Over the last five years, violations of the Law on Procedures for Organizing Demonstrations and Gatherings and the Law on Violations have been recorded as follows: 2020: 20 violations in Ulaanbaatar and 3 in rural areas. 2021: 18 violations in Ulaanbaatar and 2 in rural areas. 2022: 19 violations in Ulaanbaatar and 4 in rural areas. 2023: 8 violations in

Ulaanbaatar and 1 in rural areas. 2024: 9 violations in Ulaanbaatar with none in rural areas.

In total, 84 violations were registered, resulting in penalties for 68 individuals under Article 5.8 of Chapter 5 of the Law on Violations for breaching procedures related to organizing protests and demonstrations. These individuals were fined for their actions.

### The Relationship Between International Standards and National Legal Frameworks

The government may impose restrictions under specific conditions that comply with international human rights standards. Such limitations must be lawful, proportional, and directed towards legitimate objectives. Restrictions on peaceful assembly must meet the following three criteria:

1. Legality: Restrictions must be established by law or based on administrative decisions grounded in law.

2. Legitimate Purpose: They should aim to protect national security, public safety, prevent disorder and crime, and safeguard health and morality.

3. Necessity and Proportionality: Restrictions must be necessary in a democratic society and proportionate to the intended aim. If the harm resulting from the restriction outweighs the benefits of the assembly, the restriction is considered disproportionate and therefore impermissible.

These principles are reflected in various international treaties, including Article 21 of the International Covenant on Civil and Political Rights and Article 11 of the European Convention on Human Rights. These articles state that no restrictions other than those prescribed by law and necessary in a democratic society should be imposed on the right to peaceful assembly. (United Nations, 2020)





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Types of permissible restrictions as outlined in Article 21 of the International Covenant on Civil and Political Rights:

**National Security:** Authorities may impose restrictions to protect national security or public safety. Protecting national security involves safeguarding the existence of the nation, territorial integrity, and political independence from threats or acts of violence. This justification does not include measures taken to prevent or eliminate threats that arise from laws and regulations in certain areas of the country.

**Public Safety:** Measures can be taken to prevent crimes and violations during assemblies and demonstrations. Protecting public order refers to the fundamental principles and legislation that constitute the political community. Respecting human rights is part of maintaining public order; thus, when limiting the right to peaceful assembly, it is essential to consider the legal principles being protected and the relationship between these principles and the right to assemble peacefully. The forced dispersal of spontaneously formed assemblies, which have not been registered according to established laws, cannot be justified on the grounds of protecting public order.

**Social Order:** Protecting public safety means safeguarding individuals' security, lives, physical integrity, and preventing serious harm to property. Most legally established restrictions on the right to peaceful assembly relate to protecting public safety; however, this justification should not be used too broadly or arbitrarily to limit the right to peaceful assembly.

**Public Health and Morality:** Restrictions may be based on protecting public health and morality. During an outbreak of infectious disease, if gatherings are deemed dangerous, restrictions may be imposed (for example, if sanitary conditions during assemblies pose significant risks to public health and participants).

**Protecting the Rights and Freedoms of Others:** This refers to understanding restrictions imposed in order to protect the rights and freedoms of others as a necessary requirement under constitutional law and international treaties guaranteeing human rights for members of society other than those exercising their right to peaceful assembly. It also includes using public and other spaces in accordance with legal regulations.

Under the Constitution of Mongolia, in cases where a state of emergency or war is declared, human rights and freedoms specified in the Constitution and other laws can only be restricted by law. Such restricted laws shall not undermine the rights to life, belief, freedom of religion or non-religion, and shall also prohibit torture, inhumane or degrading treatment.

When exercising human rights and freedoms, individuals must not infringe upon national security, the rights and freedoms of others, or disrupt public order.

In Mongolia, the Law on Procedures for Assemblies and Demonstrations establishes the following restrictions on the right to assemble and demonstrate:

**Within the Scope of Purpose:**

Promoting war, inciting conflict between ethnic groups, or discriminating based on race, language, skin color, age, gender, social origin, status, or religion; committing murder, genocide, or engaging in sabotage; calling for the unlawful seizure of state power;

Causing disorder that harms national security and public order.

Within the Scope of Emergency Conditions:

If a state of emergency or war is declared at the national level or in a specific territory due to disaster or danger, assemblies and demonstrations will be prohibited in that area until the cause is eliminated.

**Within the participants**

The right to organize assemblies and demonstrations is granted to:

- Citizens of Mongolia,
- Politically registered parties,
- Non-governmental organizations.

The right to participate in assemblies and demonstrations is granted to:

- Citizens of Mongolia,
- Foreign citizens and stateless persons participating in assemblies organized according to Mongolian legislation unless otherwise specified by international treaties.

**Within the Scope of Objects:**

- Airports, all railway stations and stops, passenger transport centers in the capital;
- Areas under military, police, and state protection;
- Organizations that broadcast radio and television programs; central communication offices in provinces and the capital;
- Organizations organizing international or national fairs and exhibitions; food markets and commodity markets in urban areas;
- Medical institutions;
- Areas belonging to Sukhbaatar Square in Ulaanbaatar City where the State Palace is located



	(according to the Law on the State Palace of Mongolia); - Permanent zones under special state protection.
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Table 2. (Comparison of legal acts)

When comparing the restrictions on assemblies and demonstrations stipulated in international standards with those in Mongolia's Law on Assemblies and Demonstrations, it is noteworthy that the Mongolian law includes more detailed subject and object restrictions. According to Article 5 of the Covenant, any rights and freedoms recognized by the Covenant cannot be restricted beyond what is specified in the Covenant.

Therefore, analyzing the following restrictions in relation to the interpretations of the International Covenant on Civil and Political Rights, its implementation, reports on the status of human rights and freedoms in Mongolia, and the legislation of other countries reveals:

#### **One. Within the Scope of Subjects:**

The interpretation of the International Covenant on Civil and Political Rights states that any person, whether a citizen or a stateless person (foreign citizens, immigrants, asylum seekers, refugees, stateless individuals), has the right to peaceful assembly and demonstration.

The Constitution of Mongolia, in Article 16, stipulates that the fundamental rights and freedoms of citizens of Mongolia can be granted to foreign citizens and stateless persons within the territory of Mongolia, except for those rights that are considered inalienable under international treaties to which Mongolia is a party. However, it allows for appropriate legal restrictions to ensure national and public safety and to protect public order, indicating that the implementation of the aforementioned international treaty may not be uniform.

According to the Law on Procedures for Assemblies and Demonstrations, participants in assemblies and demonstrations are categorized into:

The Right to Organize:

Citizens of Mongolia,  
Politically registered parties,  
Non-governmental organizations.

The Right to Participate:

Citizens of Mongolia,

Foreign citizens and stateless persons participating in assemblies organized according to Mongolian legislation unless otherwise specified by international treaties.

While the Law on Procedures for Assemblies and Demonstrations defines the right of citizens of Mongolia to organize assemblies and demonstrations, the Law on the Legal Status of Military Personnel prohibits military personnel from organizing or participating in assemblies without the permission of their superiors. Additionally, the Law on Civil Service explicitly prohibits civil servants from participating in any assembly or demonstration that opposes state policy or actions, as well as disseminating information related to such assemblies.

In some countries around the world (Saudi Arabia, Turkey, Pakistan, Egypt, Iran), military and civil servants are restricted from participating in assemblies and demonstrations. These countries share common characteristics as Islamic states. In contrast, countries like the United States, Canada, Germany, Australia, and France allow military and civil servants to participate in assemblies and demonstrations. In the U.S., police and military personnel can participate in peaceful protests as civilians. In Germany,

civil servants, including police and military personnel, are allowed to participate in demonstrations as long as they do not fulfill their official duties. In France, civil servants have the right to participate in demonstrations but may be required to notify their superiors or may face restrictions during working hours. (Erdem-Undrakh et al., 2022)

Military and civil servants have limited rights to express their opinions on political, social, economic, human rights, and freedoms by participating in assemblies and demonstrations as citizens of Mongolia. According to international standards, if the right to assemble and demonstrate is directly restricted, the justification for such restrictions must be clearly stated in the law.

The report on the implementation of the International Covenant on Civil and Political Rights (ICCPR) addressed subjects in a report submitted in 1998. (Mongolian government, 1998) It included that the provision in Article 11, Section 3, Clause 5 of Mongolia's Law on Procedures for Assemblies and Demonstrations states that "the organizer of the assembly is responsible for not allowing individuals with mental illnesses to participate in the assembly," which contradicts Article 26 of the ICCPR that states "everyone is equal before the law and is entitled without any discrimination to equal protection of the law." In this sense, any form of discrimination must be prohibited by law, ensuring equal and effective protection against discrimination based on any characteristics such as race, color, sex, language, religion, political or other opinions, national or social origin, property status, birth status, or other conditions. This indicates that discrimination based on health status falls within these conditions and violates Article 10, Section 2 of the Constitution, which states that "Mongolia shall

faithfully fulfill its obligations under international treaties".

Secondly, the provisions in Article 11, Section 3, Clause 5 stating that "the organizer of the assembly is responsible for not allowing minors to participate in the assembly" and Article 12, Section 1, Clause 4 stating that "participants in an assembly are responsible for not bringing minors" violate Article 15, Section 1 of the Convention on the Rights of the Child which states that "the right to peaceful assembly for children shall be recognized by participating states." Therefore, I request that my application be processed within the legal timeframe and that the dispute be resolved.

The Constitutional Court reviewed this application and reached the following conclusions:

The provisions in Article 11, Section 3, Clause 5 of Mongolia's Law on Procedures for Assemblies and Demonstrations stating that "the organizer of the assembly is responsible for not allowing minors to participate" and Article 12, Section 1, Clause 4 stating that "participants in an assembly are responsible for not bringing minors" violate Article 10 of the Constitution of Mongolia as well as Clause 16 of Article 16 and Clause 6 of the annexed law.

The provision in Article 11, Section 3, Clause 5 stating that "the organizer of the assembly is responsible for not allowing individuals with mental illnesses to participate" does not violate the Constitution of Mongolia.

The State Great Hural of Mongolia deemed this decision unacceptable with its resolution dated April 26, 1996. Consequently, during its meeting on May 16, 1996, the Constitutional Court discussed this matter and maintained its previous conclusion in principle. As a result, the legal provisions mentioned in the complaint were invalidated and



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restrictions prohibiting participation in assemblies were lifted.

## **Two. Within the Scope of Objects:**

Restricting the location and objects for organizing assemblies and demonstrations may be justified in certain circumstances related to safety and public order. However, regarding the limitations on location elements, the interpretation of the Covenant states that peaceful assemblies should, in principle, be held in public spaces accessible to all, such as public squares and streets. While regulations may restrict this right in certain spaces like buildings or parks due to public accessibility, such restrictions on peaceful assemblies must be justified under Article 21 of the Covenant. It is explained that public assemblies should not be prohibited in all streets and areas within the city or in specific locations outside the city center.

Regarding the locations for organizing assemblies and demonstrations, the Law on Procedures for Assemblies and Demonstrations specifies that airports, all railway stations and stops, passenger transport centers in the capital, areas under military, police, and state protection, organizations that broadcast radio and television programs, central communication offices in provinces and the capital, organizations organizing international or national fairs and exhibitions, food markets and commodity markets in urban areas, medical institutions, and areas belonging to Sukhbaatar Square in Ulaanbaatar where the State Palace is located are designated as permanent zones under special state protection.

The Law on Special State Protection prohibits organizing assemblies, demonstrations, sit-ins, or hunger strikes within special state protection zones. Additionally, the Law on the Legal Status of Government Ministries

prohibits political and religious activities such as organizing assemblies and demonstrations within ministries.

The 2023 report on the status of human rights and freedoms in Mongolia (National Human Rights Commission, 2023) indicates that there is a need to review places and times where assemblies are prohibited according to international standards established by the ICCPR. For instance, whether it is necessary to prohibit assemblies in locations under military, police, or state protection, or at organizations hosting international or national fairs and exhibitions as well as food markets in urban areas raises questions about object-related issues.

## **Scientists' views**

Lawyer D. Orosoo: It is essential to distinguish and separate who should protect public order and citizens' safety. Demonstrations and assemblies are not contrary to public order or citizens' safety; rather, they are inalienable freedoms granted by the Constitution. The issue of maintaining public order should not be juxtaposed with human rights and freedoms, and human rights and freedoms should not be restricted on that basis. Over time, the issue of ensuring public order and citizens' safety has transformed into a justification for prohibiting the right to assemble and demonstrate. Legitimate restrictions on human rights that exceed reasonable limits ultimately violate those rights. While specific limitations may be established by law on the right and freedom to peacefully assemble and demonstrate, the essence, completeness, and unity of this right should not be compromised or infringed upon. The Constitution guarantees the right to express opinions freely. "Freedom" implies being free from coercion, undue or unreasonable restrictions that do not meet legitimate demands, meaning that expressing opinions should also be free in

terms of time, space, territory, method, and form. (Orosoo, 2004)

Dr. O. Munkhsaikhan: Assemblies can take place outdoors or indoors, on public or private property. The main conditions for restrictions set by the Constitution of Mongolia may not necessarily align with those established by the ICCPR if they are broader than those set by the Covenant. (Munkhsaikhan, 2017)

### **Recommendations from the United Nations Human Rights Council's Universal Periodic Review (UPR)**

Our country has presented its reports to the Human Rights Council's mechanism in 2010, 2015, and 2020, receiving 126 recommendations in 2010, 150 in 2015, and 170 in 2020 (Human Rights Council of the United Nations, 2010, 2015, 2020). Among these recommendations, some relate to the right to express opinions and hold peaceful assemblies:

Align national legislation related to freedom of expression with the International Covenant on Civil and Political Rights, and ensure the independence of the Communications Regulatory Commission - 2015.

Fully respect human rights, including the right to privacy and freedom of expression, in all aspects of internet regulation. Ensure that any limitations on these rights are "in accordance with the law," "necessary," and "proportionate" - 2015.

### **Conclusion**

Mongolia's Law on Procedures for Organizing Demonstrations and Gatherings states that assemblies must be registered or notified, in practice, it operates as a "permission-based" system. The law grants governors the authority to deny registration, effectively making the system more about obtaining permission

than simple notification. This creates obstacles for citizens in exercising their rights.

Governors have been found to exceed their legal authority by prohibiting assemblies across their jurisdictions or rejecting registrations on grounds not stipulated by law. This violates the principle of rule of law and international human rights standards, which mandate that restrictions on human rights must be lawful and justified.

The Law on Police mandate that forced dispersal of assemblies can only occur under specific legal conditions and with a governor's decision. Police are required to notify organizers beforehand and warn them of potential actions if they fail to comply. International human rights standards also require police to tolerate peaceful assemblies, even if unregistered, and avoid using force. However, in practice, these legal provisions are poorly implemented, with instances of forced dispersals and arrests of organizers.

Issues related to freedom of expression and peaceful assembly remain unaddressed despite recommendations from the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), General Comment No. 37 on Article 21, and UN mechanisms like the UPR.

While some restrictions may be necessary for maintaining public order, they must adhere to principles of justification and proportionality. The current law acknowledges the right to assemble but includes provisions that unjustifiably restrict this right. For example, most assemblies are deemed illegal due to registration requirements, preventing citizens from fully exercising their freedoms. Additionally, fines are frequently imposed on organizers protesting government policies.



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Lawmakers must review existing legislation affecting peaceful assembly rights. Align national laws with international human rights standards to ensure citizens' rights are protected.

Foster dialogue between citizens, civil society organizations, and state authorities to prevent unlawful restrictions on rights. By creating an environment that respects the right to peaceful assembly, Mongolia can strengthen its democratic processes and fulfill its international commitments. Ultimately, safeguarding these rights is crucial for fostering an active civil society and reinforcing democracy in the country.

### Proposal

1. Take effective steps to create a legal and institutional environment that supports the enjoyment of the right to peaceful assembly without discrimination, as stated in the International Covenant on Civil and Political Rights (ICCPR). Specifically, revise the Law on Procedures for Organizing Demonstrations and Gatherings to align with international human rights treaties and conventions.

2. Ensure that international standards are adhered to when resolving issues related to fundamental rights. Courts should use international human rights treaties and conventions ratified by Mongolia as guiding principles when adjudicating cases.

3. Address the issue of "inaction by governors" when they refuse to register demonstrations or gatherings based on Article 9.4 of the current Law on Procedures for Organizing Demonstrations and Gatherings. This article allows governors to negotiate or adjust details with organizers but has been used to deny registration. Courts should consider such inaction when resolving disputes of this nature.

4. Conduct research and analysis on the statistics and circumstances

surrounding certain crimes related to the protection of freedom of expression and peaceful assembly under criminal law (e.g., Article 13.9: Illegal arrest or detention; Article 14.1: Discrimination; Article 14.3: Violation of freedom of expression and press).

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МОНГОЛЫН Дотоодын Ажиллагаа