**ANSWERS RELATED TO**

**THE RIGHT OF ANYONE DEPRIVED OF HIS OR HER LIBERTY BY ARREST OR DETENTION TO BRING PROCEEDINGS BEFORE COURT, IN ORDER THAT THE COURT MAY DECIDE WITHOUT DELAY ON THE LAWFULNESS OF HIS OR HER DETENTION AND ORDER HIS OR HER RELEASE IF THE DETENTION IS NOT LAWFUL**

**From: National Human Rights Commission of Mongolia**

1. Even though according to criminal procedure code a person deprived of his or her liberty by arrest or detention has a right to bring proceedings before court, this procedure still are not formal in judicial practice. A person who thinks he was arrested or detained on ungrounded or illegal reason, he/she can lodge complaint to a court superior to the judge who released arrest warrant or chief judge of the courts of soum or district or province or city. However, the procedure to change the arrest warrant and release the person has not been legalized in law, so prosecutors and judges still keeps practice of detaining the person until court trial. Also in case of false charge and illegal detention the National Human Rights Commission of Mongolia (NHRCM) shall file a lawsuit to the court on behalf of the victim to remedy the moral, physical, and material damage inflicted to him or her.
2. The provisions of the 2002 Criminal procedure code which allows only a judge to release a warrant arrest order guarantees human rights to be ensured and protected. In addition, right to lodge complaint on warrant arrest and detention orders is legalized. (Article 114 of the Criminal procedure code of Mongolia)
3. There is a very limited opportunity to get legal assistance. Without advocate the detained persons are in position to be subjected to violation their rights and downgrading their legal status. While the persons who are accused of criminal charges usually are financially incapable people, there was not formal and legal environment to provide them legal aid without payment. Even though state advocates are to work from 1 January 2014, the relevant law is still ineffective.
4. Thirty percent of the complaints the NHRCM receives are lodged from the pre-trial detention centers, and the NHRCM refers to the law enforcement agencies in connection with the over-extension of the pre-trial detention period, legal basis, and health problems of the detainees. Request for legal representatives are usually referred to Advocates’ Association.
5. NHRCM has delivered various proposals and recommendations within the scope of the rights to liberty and security of person, and currently legal reform is undergoing process. NHRCM has been giving its proposals on the draft laws in connection with this reform.
6. If such principles are adopted, the NHRCM will take it as a guideline in delivering demands and recommendations to law enforcement organizations and relevant authorities.
7. This could be beneficial to improve legal environment of arrest, detention, and court proceedings and prevent from human rights violations.