

INFORMED PEOPLE ARE POWERFUL: THE STORY OF THE ACCESS TO INFORMATION CAMPAIGN



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It was late September 2013 when I was leaving Tes soum in Uvs province, located 1,500 kilometers from Ulaanbaatar, the Capital of Mongolia that borders with the Tuva Republic of the Russian Federation. It was the last of 20 districts where we had conducted trainings for local communities on using the Access to Information Law. It was the culmination of

seven years of advocating and lobbying to get this law passed.

One of the trainees had said that the right to information is an important right in one's life and that it can truly change local cultures. Yes, indeed. It was a social need, which was why we started our campaign in the first place.

The importance of the right to information

Mongolia, a country completely landlocked between Russia and China, embraced democracy in 1990, after the collapse of 70 years of communist rule under the Soviet Union. The 1992 democratic Constitution made remarkable progresses in guaranteeing its citizens many rights and freedoms, including the Freedom of Expression (FoE) and the right to seek and receive information.

In 2002, in cooperation with Article 19, a London-based international free expression non-governmental organisation (NGO), the Globe International Center (GIC) released a report, 'Mongolia in Transition: A Legal Analysis Affecting Freedoms of Expression and Information'. The main conclusion was that: 'A key problem in Mongolia is the lack of openness of public bodies.'¹

¹ http://www.forum.mn/res_mat/A19%20Analyses_eng.pdf.

Despite Constitutional guarantees, the old traditions that made it possible for virtually anything to be classified as 'secret', and hidden from the public for an indefinite period of time, were kept. It contradicted the spirit of the Mongolian Government's commitment to democracy. It was a question of political will. To enable a culture change, which required fundamental reforms in Mongolia, from a closed to an open society. The public had no idea that they had the right to access information held by the Government. Politicians, and even journalists, understood Freedom of Information as the same thing as press freedom, and as such it was only a journalist's professional right.

Starting the campaign:

Assessment, Awareness and Access

At GIC, we believed that access to information legislation would play an important role in making the Government more transparent and open to its citizens. With this in mind, we developed a strategy for 2002-2004, and started raising funds for a newly established strategic programme entitled 'The Right to Know: Freedom of Information'.

Our key concept was that access to information was essential to the health of a democracy for two reasons. First, it ensures that citizens make responsible, informed choices rather than acting out of ignorance. Second, information serves as a 'checking function', ensuring that elected representatives uphold their oath of office and carry out the wishes of those who elected them.

We managed to secure about 50,000 USD from the Mongolian Foundation for Open Society (currently the Open Society Forum, Mongolia), Australian Aid (AusAID) and the Embassy of the United States of America (USA). Our first 12-month project, 'The Right to Know: Freedom of Information', started on 15 June 2002.

The strategy had the immediate and ambitious goal to lobby for the passage of the Freedom of Information (Fol) law through a wide public campaign, based on an approach called, Assessment, Awareness and Access.

Assessment of the situation was highly important in order to identify public concerns and needs. After completing our legal analysis, we decided to conduct three studies. First, we studied all existing Government policies, programmes and projects, when we noticed there was a lack of policies on transparency and access to information. A National Program on Good Governance for Human Security, run by the Ministry of Justice and Home Affairs (MJHA) and funded by the United Nations Development Programme (UNDP), was the only policy document that we could refer to. One of its objectives stated: 'to study opportunities to draft a freedom of information law'. We immediately approached the MJHA and effectively cooperated with them to achieve our results. Second, we researched related international documents. Third, we conducted a survey among public officials and citizens.

Regarding Access, we identified our stakeholders. On a political level, we selected our three champions: Mr. N. Enkbold, Member of Parliament (MP), who provided a reference letter about our project to AusAID; Ms. S.Oyun, MP, who had initiated anti-corruption legislation; and Mr. Ts.Munkh-Orgil, State Secretary of the MJHA. Later, more MPs were engaged as potential initiators of the law to be drafted. We also engaged public officials and top managers.



The creation of the legal environment, in our view, was not only dependent on the existence of relevant laws, but also on legal implementers. We needed lawyers to defend the right to information, Government officials charged with the

duty to implement the law, and finally, people to use the law in practice. We selected journalists who were part of an active group to use the law to gather information on behalf of the public. Media also played a dual role in informing and educating the public. We selected NGOs to form an active group to share and disseminate knowledge and information among their target groups, and to become a strong joint voice for society.

Awareness building started with the publication of a handbook for legislators, 'The Right to Know: Freedom of Information', which included international documents such as a Model Fol Law; 'Principles on Freedom of Information and Drafting Access to Information legislation: Trends in CIS and Central and Eastern Europe', prepared by Article 19; 'Freedom of Information. An Unrecognized Right: The Right to Know and the European Union'; a UFJ Briefing Document; the Johannesburg Principles on Fol; and a 'Statement Regarding Key Issues and Challenges in Freedom of Expression'.

Of course, our direct target was the people of Mongolia. Our stakeholders were groups that could influence the public to seek and request information from Government bodies, demand accountability of authorities and officials, and, most importantly, make the public understand that information produced and held by Government bodies is public property. We needed to raise awareness of all the identified stakeholders. We carefully planned our activities by forming two groups: an Advocacy Group; and a Law Drafting Group.

The Advocacy Group consisted of six NGOs that we trained. A series of meetings was organised to discuss the project plan and policy issues, such as the legal concept and who we should approach to be a law initiator, and so on. The Law Drafting Group consisted of five members: our three lawyers and two representing the MJHA and the Zorig Foundation, a Mongolian NGO.

After six-months of preparations and policy work, the first event was organised. A meeting with eight leading lawyers from Mongolia was held on 13 December 2002. At this event, we delivered our legal concept and principles of the FoI draft law. Four days later, we organised the first round table, in



cooperation with the Parliament, which was held at the Government House. Mr. J. Bayambadorj, the Deputy Speaker, delivered opening remarks, of which the text was kindly requested to be written by me. He delivered the whole text, as written, except for one sentence: 'Information is the oxygen of democracy'. Mr. N. Enkhbold, an MP, spoke on the need of FoI legislation in Mongolia. The round table was a success, with the participation of 67 of our stakeholder present including 18 out of 76 MPs. It was frustrating though that every discussion turned to media freedom issues, including yellow journalism, journalistic ethics and defamation, and more. However, each media issue raised by a participant, allowed us to give a detailed explanation that it was about more than that. We published a comprehensive round table report and the event was widely covered by the media.

Public awareness was an important element of our campaign, so we developed an information dissemination policy through our media allies. The public was educated on their right to information through video spots, fliers, which were delivered to newspaper readers as a supplement, as well as two television ads, four radio programs and 16 newspaper publications. Journalists played a key role in the media rallies, as couriers of our messages to society and educators of the people.



In 2003, we conducted a series of trainings and workshops for human rights workers, law advisers and district social workers, as well as for journalists.



The end of the first project and pledges from the Government

Our first project ended in June 2003, and we then secured funding from AusAID for a project that allowed us to launch the Freedom of Information website.² We published five Citizen Guidebooks:

the Right to Know and Freedom of Information; the Right to Know and Freedom of Expression; the Right to Know and Right to Vote; the Right to Know and Right to Direct Participation; and the Right to Know and Right to Act, which were all widely distributed.

Since 2003, the situation had changed. The Government pledged to adopt the Fol law and to integrate it into the National Programme on Combating Corruption, which had been adopted on 15 March 2003. The Government also promised to ensure transparency, and adopted relevant laws in the Ulaanbaatar

Declaration, the final document of the Fifth International Conference of New or Restored Democracies (ICNRD). A conference which was held in Ulaanbaatar on 8-12 September 2003 and was attended by more than 500 delegates from 119 countries.

Meanwhile, the MJHA formed its Working Group in 2004, and it accepted the first version of the law drafted by the Advocacy Group. It was on the Parliament's agenda to be discussed in October 2005. It was delayed. After a year, in October 2006, the Cabinet finally discussed the submission of the draft law. The submission was then postponed in order to include information-security issues. At the same time, the Government was still using secrecy laws to conceal information, ignoring its pledge to 'provide the citizens with the right

² <http://www.globeinter.org.mn/mech/index.php> (Mongolian)
<http://globeinter.org.mn/old/en/emech/index.php> (English)

to access all information' and the Anti-Corruption laws that guaranteed 'transparency to the public'.

In March 2004, we organised an international round table 'Secrecy and Freedom of Information' in the conference hall of the Ministry of Foreign Affairs. At that time, Mongolia was visited by guests from five countries who came to work with the State Archive on open archives. We wanted to use this opportunity for our purposes, and the Asia Foundation helped us to make it possible.

In 2005, we decided to re-name our program, 'Promoting Good and Transparent Governance'. We needed to build Government capacity and to create political will. The year 2005 was important, with new anti-corruption laws being adopted and a plan on the table to establish an Independent Agency against Corruption (IAAC) in 2006. We saw the IAAC as our key and permanent partner in intensifying our advocacy. In April 2007, the IAAC issued 18 articles of recommendations to Governmental organisations aimed at improving transparency and access to information.

Changing the approach

Following World Press Freedom Day (WPFD) on 2 May 2007, MPs S.Oyun, S.Batbold, E.Bat-Uul, S.Lambaa, and Ts.Munkh-Orgil submitted their draft law, but it was delayed again in Parliament. In 2008, after the Parliamentary elections, a new Government pledged to adopt the Law on Fol in its Government Action Plan for 2008-2012.

Our new 12-month project, 'Better Access to Curb Corruption', supported by the Embassy of Great Britain and Northern Ireland, allowed us to continue our campaign. In December 2008, GIC invited ten Mongolian NGOs to create a Civil Society Coalition to lobby for the Fol law. An Opinion Exchange Meeting with MPs was held on 11 March 2009.

The Parliament Office kindly responded to our request and secured Conference Hall 'E' for four hours at the Government House.

This time, we decided to change the meeting format and we produced single copies of 18 A3 posters referring to the pledges of the Mongolian Government to enact the Fol Law, the UN Assembly Resolution No. 59 on the Fol, and results of surveys and studies carried out by our organisation. We also produced t-shirts and mugs with the message, 'Freedom of information is an essential human right'. We wrote a so-called 'Trust Message' delivered to every MP. And we started sending messages and e-mails to the MPs asking them for a meeting at their convenience.

When the people came, even if it was only one person, we gave them a tour showing the posters and explaining the story behind each one of them. A total

of 61 people joined, including 20 MPs and four advisers of other MPs, as well as officials from the Parliament Office, Parliamentary Standing Committees, the Parliament's Research Centre and the Parliament's Group of the Democratic Party, legal consultants from different Ministries, NGO representatives and 15 Parliamentary journalists. As a result, nine MPs agreed to join the law initiating group, six MPs agreed to support the law and five MPs promised to respond after getting acquainted with the existing draft.



On 28 April 2009, Parliament formed its Working Group and I was invited as a consultant. In 2010, the Government draft law on FoI was submitted to Parliament. It was delayed again. However, on 14 May 2010, the Government approved its Resolution No.143 titled, 'Transparency Indicators of Public Institutions', which obliged public bodies to make information on their activities, finances and budgets, and procurement and human resources open to the public. It created momentum to move ahead and, having this Resolution, we went to two provincial districts: Bayankhutag of Khentii province and Guchin Us of Uvurkhangai province to train citizens and public officials on FoI. We built the capacity of ordinary citizens to monitor the implementation of the Resolution. We helped Governors'

Offices in launching their websites to disclose public information.

The passage of the law

In January 2011, Parliament made a decision to enact the law, and in April a public hearing was organised, which we attended as a key partner. One of the law initiators, Mr. Batbold Sukhbaatar, became Prime Minister and thanks to his efforts, finally, on 16 June 2011, the Parliament of Mongolia passed the Law on Information Transparency and Right to Access to Information.

In the following two years we tracked the law's implementation. Unfortunately, the Government did not promote the law and the public was still unaware of the existence of the law. So, we chose 20 remote districts of eight provinces as targets to start working on this through a United Nations Democracy Fund (UNDEF) grant.

One problem was that a procedure on payment, as stipulated in the law, was not adopted by the Government. We had to lobby a new Government, formed after the 2012 elections, to have this corrected.

Secrecy laws are far too strict, allowing Government bureaucrats to prevent citizens and media from obtaining access to many documents, even when it is clearly not justified. Often the secrecy covers up corruption and bribery that flourishes in many parts of the Government.

As any NGO, we lacked sufficient funding and we sometimes had no money, but we never stopped. We were keen to continue our efforts to promote access to information and to make our people powerful. I recall that one of our Citizens Transparency Monitoring Team members said: 'Now, I believe citizens are



powerful'. Informed people are truly powerful. That is our key message.

I would like to take this opportunity to express my deepest gratitude to Mr. Toby Mendel, Executive Director of the Center for Law and Democracy, who has been so committed in helping us for all these years, lobbying the MPs and providing expertise on all the existing drafts.