

# **Globe International**

## **Information Law Advocacy Project Final Report**

**Submitted to the Embassy of Great Britain and North Ireland**



# *Information law Advocacy*



## **FINAL REPORT**

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## **TITLE**

1. Project Introduction
2. Project Results
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4. Project Performance
5. Constraints/Problems
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### **Attachments:**

Attachment 1: Short meeting minutes of Experts` Team

Attachment 2: Analysis on the existing drafts by Experts` Team

Attachment 3: Law Draft Working Groups` Joint Meetings program,  
list of participants, short minutes, presentations

Attachment 4: Case study on civil and criminal defamation heard by  
the Mongolian courts in 2009

Attachment 5: The list of law related to media, information,  
transparency and secrecy

## ***Information Law Advocacy***

### **1. Project Introduction**

Globe International, a Mongolian NGO completed the two-month project entitled “Information Law Advocacy” started in February 20, 2011 under the funding of the Embassy of Great Britain and North Ireland in Mongolia. The total of 10,159,000 MNT spent for the project activities.

Over the last year, the at least six draft laws including Law on the Right to Access Information, Law on Information Security, Law on the Amendment to the Media Freedom Law, Law on the Mass Media, Data Protection Law, new version of State Secrecy Law have been prepared by working groups of different public institutions and all have definition of information and similar principles. We launched this project to coordinate the works of the different working groups established at various public institutions and to meet the needs to have a common understanding and one definition of the concepts.

No similar works have been done by others. Working groups have organised some consultative meetings separately, but no joint discussions carried out.

The overall goal of the project was to raise awareness of law makers and educate lawyers on the information law thus contributing the proper information legislation.

The project targeted to the law makers, entire public and decision-makers.  
The project carried out the following three inter-related activities:

- Produce analysis on the existing drafts by Experts’ Team. Organize Law Draft Working Groups’ Joint Meeting
- Case study on civil and criminal defamation heard by the Mongolian courts in 2009 and 2010.
- Update of media law menu at Globe International website.

The main result of the project was the working groups came to common understanding of issues and indentified the issues in drafting information and media related law drafts. The working group meeting concluded that such coordination is extremely important and the process started. These activities should be continued in order to have a complex and quality law regulating media.

The project was implemented by the team of experts with following members:

1. Kh.Naranjargal, Consultant, Globe International
2. D.Munkhburen, Team leader, lawyer, Globe International
3. D.Saranchimeg, lawyer
4. J.Bayartsetseg, lawyer
5. G.Erdenebat, lawyer
6. T.Ayushjav, assistant

## **2. Project Results**

The project achieved its objectives:

- To exchange opinion and share information on the existing law drafts through the joint meeting of the law drafting working groups
- To discuss and come to the common definitions set forth in the different drafts through discussions at the joint meeting of the law drafting working groups
- To educate the law makers on issues of media, its freedom and principles of independent media and journalism, and media terminologies through presentation on media terminologies through the joint meeting of the law drafting working groups
- To educate the law makers why criminal defamation should be revealed and why freedom of expression restrictions must be narrow through report of survey on court defamation cases

*Project Output:*

- Analysis Report of on the existing law drafts and adopted regulations available and presented to the round table
- 18 members of nine Law Draft Working Groups educated on the terminologies of media and information
- Report of case study on civil and criminal defamation cases against media and journalists heard by the Mongolian courts in 2009 available for the public through Globe International web site
- Media law menu of Globe International web site updated laws and it now has 188 law provisions related media and information in Mongolian and 92 in English

## **3. Project Activities**

The project staff approved the detailed working plan and carried out the following activities:

### ***3.1 Experts' Team meeting***

The meeting was organised on February 25, 2011 at the Globe International's office and it discussed main principles of the analysis on the existing law drafts. The Experts' team members shared their responsibilities and approved the working plan.

Please see the short meeting minutes in Mongolian. Attachment No 1

### ***3.2 Analysis on the existing drafts by Experts' Team***

Seven public institutions formed its working groups. They work on 12 draft laws and procedures/regulations related to information and media described in the following table. At least one law titled Broadcast Law is considered to be drafted by the Information, Communications Technology and Post Authority.

<b>№</b>	<b>Public Institutions/Title of draft laws</b>		<b>Document development status:</b>	<b>Whether to be involved in the survey</b>
<b>1</b>	<b>Information, Communications Technology and Post Authority</b>			
	1	Draft law on “Information Safety”	Developing	No
	2	Draft law on “Data Protection”	Developing	No
<b>2</b>	<b>Communications Regulatory Commission</b>			
	1	“General Regulatory Conditions and Requirements for Digital Content Service” (entry into force- 1 <sup>st</sup> of March, 2011)	Approved	Yes
	2	“General Regulatory Conditions and Requirements for TV and Radio Broadcasting” (entry into force- 1 <sup>st</sup> of March, 2011)	Approved	Yes
<b>3</b>	<b>General Intelligence Authority</b>			
	1	Draft law on new version of the Law on State Secrecy	Developing	No
	2	Draft law on “Cyber Safety”	Drafting	Yes
<b>4</b>	<b>Ministry of Justice and Home Affairs (MoJHA)</b>			
	1	Draft law on “Mass Media”	Drafting	Yes
	2	Draft law on “Freedom of Media”	Drafting	Yes
<b>5</b>	<b>Cabinet Secretariat of the Government of Mongolia</b>			
	1	Draft law on “Information Transparency, Freedom and Right to Access Information”	Submitted to the Parliament	Yes
	2	Draft law on “Digital Signature”	Submitted to the Parliament	Yes
<b>6</b>	<b>Parliament</b>			
	1	Draft law on “Freedom and Right to Access Information”	Drafting	Yes
<b>7</b>	<b>Office of the President</b>			
	1	Draft law on “Freedom of Media”	Drafting	Yes

Experts` team reviewed the existing 9 draft laws and procedures out of 12 and produced analysis on the existing drafts. The experts group did not review three papers. The analysis did not include draft Law on data protection and Information Safety because we could not get even through formally, it was agreed to have the drafts by reason that leaders of working group were traveling. The draft on new version of the Law on state Secrecy is still under the development process, so we were unable to get the paper.

The team produced a report and it concluded that there are two points in the up-coming legislation: 1) ensure more freedom and rights through news and information and provide new regulations of the changes brought by the new information technology. The report also

highlighted the problems of the drafts which have the different definitions of the same terminology, duplication of the same terminologies or leave new terminologies without definition, or terminology and content contradict each other.

Experts' Team calls the working groups to cooperate in the future and exchange information and experiences, organise a series of the joint meetings and agree on scope of the regulations and principles and definitions.

Full Report on Analysis on the Existing Drafts attached. Attachment No 2

It is available at the following link of Globe International web site.

<http://globeinter.org.mn/index.php?cmd=Record&id=845&menuid=379>

### ***3.3 Joint Meeting of the Working Groups'***

Joint meeting of the working groups was held on March 4, 2011 at the Conference Hall of the Open Society Forum. It involved 26 participants represented the Working Groups, Experts' team and professionals specialising on media and information issues. The meeting was



moderated by Kh.Naranjargal, Globe International leader and Consultant of the project.

The purpose of this meeting was to standardize the terminology, remove duplications and provide a single and coherent understanding of general principles of the laws, however, due to the difficulty to incorporate all aspects discussed above in a single meeting, the working group agreed on organizing further meetings to discuss the remaining issues.

The following seven working groups presented their works at the meeting:

- Draft Law on Freedom of Media and Draft law on Mass Media ", *Presenter Ms.Su.Enkhtsetseg, Specialist, Ministry of Justice and Home Affairs*

- Draft Law on Freedom of Media, new version, *Presenter Ms. J.Bayartsetseg, Legal Adviser, Office of the President of Mongolia*
- Draft of New Version of the Law on State Secrecy, *Presenter Mr.Ts.Ulziiduuren, General Intelligence Agency*
- Draft Law on Information Transparency, Freedom and Right to Access Information, *Presenter Mr.D.Munkh-Erdene, Law Department, Cabinet Office of the Government*
- General Regulatory Conditions and Requirements of the Television and Radio Broadcasting, *Presenter Ms.Ch.Oyungerel, Communications Regulatory Committee*
- Introduction on Draft Law on Cyber Safety, *Presenter Mr.N.Baatarkhuyag, General Intelligence Agency*
- General Regulatory Conditions and Requirements of the Digital Content Service,



*Presenter Mr.T.Batbold, Specialist, Communications Regulatory Committee*

After presentations of the Working Groups taken Ms D. Saranchimeg, Experts' Team member has taken a presentation on “Terms in draft laws and general provisions” that introduced outcome of analysis of common definitions and issues in the law drafts.

Ms. Naranjargal Kh, Project Consultant spoke on “Terminologies of information and media” and she has introduced the main terminologies used at international level and gapes of Mongolian translation.

### **Issues raised the meeting:**

- To regulate media self- regulation of media and media council by the Law on Public Media
- Term of the public media is confused in the present draft
- There is a need for a package of information law, so the objectives of these laws should be compared and adjusted
- To incorporate accountability of media
- To create a single method of regulation instead of 2-3 different methods stated in these laws and regulations
- To standardize, harmonize and effectively define the terminology, contextuliasse terminologies and disallow duplications
- To elaborate the article on content regulation issued by Communications Regulatory Commission as it can serve as potential censorship
- To specify the definition of media and journalist
- To issue a regulatory article on media regulation of government institutions



- To standardize the terminology
- To state the independence of media from government institutions in the draft law on the freedom of media
- To adhere to the aspect on freedom of media stated in the draft law developed by the Office of the President
- To provide legal protection for journalists
- To adhere to the international standard on eliminating the article on defamation from the Criminal Code
- To ensure thorough branding of the terminology by the working groups
- To integrate articles on purpose in the set of laws
- To use term “public media” carefully, otherwise public broadcaster already exists
- To elaborate an article on the presence of press in scientific organizations to indicate the importance of professional journalism in the development of science
- To use term media instead of media and tools of information
- To set a committee on terminology
- To engage a professional translator for the translation of media terminology
- To remove any duplication of terminology and concepts in the laws
- To provide dictionary explanation of the terms and apply accordingly
- To provide explanation of new, professional terms that are unclear to the public

Please see joint meeting`s program In English, list of participants and presentations in Mongolian. Attachment No 3

News and information on the joint meeting available at the following link of Globe International web site:

<http://globeinter.org.mn/index.php?cmd=Record&id=830&menuid=379> in Mongolian  
<http://globeinter.org.mn/index.php?cmd=Record&id=835&menuid=380> in English

### ***3.4 Case study on civil and criminal defamation heard by the Mongolian courts in 2009 and 2010.***

Two researches: Kh.Narantsetseg and Ch.Enkhbayar worked on the case study of the civil and defamation cases against media and journalists heard by the Mongolian courts in 2009. We could not access to the cases heard in 2010 because the materials were not arrived in the Capital City Court Archive, so the researchers reviewed the archival documents of nine Ulaanbaatar district courts and materials of 21 aimag courts.

The Civil Law of Mongolia protects the person’s honour, dignity and reputation and libel and insult are subject to the Criminal Code of Mongolia.

In 2009, the Mongolian courts heard and took decisions on in total of 46 civil and criminal defamation cases. Only criminal defamation case was brought to the court. 17 cases were filed against media and journalists. No criminal defamation cases launched against media, but the only criminal case was filed on the base of information distributed through media.

82.4 percent of the cases were heard by Ulaanbaatar courts. Globe International has been conducting the similar studies starting from 1999 and the number of the defamation cases against media and journalists has dropped in 2009 by 8 compare to 2008.

Years	Civil cases		Criminal cases	
	Total	Against media	Total	Against media
1999	30		3	
2000	39			
2001	31	11	4	
2002	44	37	2	2
2003	28	18	1	1
2004	40	40	1	1
2005	29	25	1	1
2006	36	31	3	3
2007	33	33		
2008	39	25	5	5
2009	45	17	1	-
<b>Total</b>	<b>394</b>	<b>237</b>	<b>21</b>	<b>13</b>

In 2009, in 17.6 percent of the cases media won and 35.3 percent- lost. The media and plaintiffs reconciled in the remaining portion or nearly half of the cases (47.1 percent).

In 73 percent of the cases, the plaintiffs were the public officials and public institutions. Indeed, the journalists face legal problems when they criticize the government officials or government agencies. Defamation legislation is still used by the authorities as censorship tool.

Full Report on Case study is attached. Attachment No 4

Full report is due to be printed and distributed. Now it is available at the following link of Globe International web site.

<http://globeinter.org.mn/index.php?cmd=Record&id=844&menuid=379> in Mongolian

<http://globeinter.org.mn/index.php?cmd=Record&id=846&menuid=380> in English

### ***3.5 Update of media law menu at Globe International website.***

We hired Mr. Sh Sodnombalgan a lawyer and he reviewed in total of 418 laws existed between 1957 and 2010. In total, 188 laws and law provisions are related to media, information, transparency and secrecy. Before it, law menu contained 91 laws and law provisions related to media and freedom of expression.

The list of the laws in English and in Mongolian are attached. Attachment No 5

The list of the laws posted in Globe international's website at the following link:

<http://globeinter.org.mn/index.php?cmd=Record&id=839&menuid=379>

<http://globeinter.org.mn/index.php?cmd=Record&id=841&menuid=380>

## **4. Project Performance**

The project staff approved a detailed work plan.

F- finished, O- on-going, D-delayed

No	Activities planned	Scheduled	Performance
1	Detailed work plan approved	Feb,-March	F
2	Contracts signed and team formed	Feb	F
3	Produce analysis on the existing drafts by Experts' Team	Feb	F
4	Analysis on the existing drafts by Experts' Team posted at Globe International website	March 4	F
5	Law Draft Working Groups' Joint Meeting	March 4	F
6	News and presentations of Joint meeting posted at Globe International website	March 4	F
7	Case study on civil and criminal defamation heard by the Mongolian courts in 2009 and 2010.	Feb-March	F
8	Court case study report published	March	F
9	Mongolian Law survey related to media, information, transparency, openness, and secrecy completed	Feb-March	F
10	Some of laws provisions translated into English	March	F
11	Update of media law menu at Globe International website	March	F

## 5. Constraints/Problems

The following constrains faced in the project implementation process:

- 1) When we first approached the relevant authorities to provide the existing law drafts, it was hard to get the papers. By talking on phone or sending the official letters to the heads of the organizations, it was agreed to submit what is available on condition that we would not disclose the papers to the public.
- 2) Upon request of the working groups by given an argument that the most of the law drafts are still under the developing process and these very first initiatives might confuse and create wrong understanding among the media community. We accepted the request and we did not invite the media and journalists to the meeting.

## 6. Conclusion

The project achieved its goal and objectives. Information law is going to be a separate law sector due to the new information technology and media convergence is becoming progressively on-going process. The sector needs complex regulation and package of laws looking at issues of media freedom, media structure, functions and responsibility to be developed.

Globe International initiative was welcomed by the working groups which were working separately from each other without coordination and information exchange. The joint meeting of the working groups concluded that coordination process successfully started and it should be continued. They requested Globe International to raise more finds to continue the coordination activities and to solve the problems with media terminologies that should be obvious and clear in the drafts.

**Report prepared by Kh.Naranjargal, Globe International President and CEO and  
D.Munkhburen, Team Leader.**