



OPEN SOCIETY FORUM



OPEN SOCIETY INSTITUTE

# **Media Freedom M o n g o l i a**

---

# 2007

---

# **REPORT**



THE GLOBE INTERNATIONAL

Ulaanbaatar  
2008

Kh.Naranjargal  
D.Munkhburen  
G.Davaakhuu  
B.Nasanjargal  
M.Amartuvshin  
S.Bayaraa  
R.Munkh-Ochir  
J.Enkhtuul  
A.Byambasuren  
Kh.Saranchimeg

Sh.Tsoodol  
I.Baigalmaa  
J.Munkh-Ochir  
O.Pagchaasuren  
A.Otgonchimeg  
O.Altansukh  
T.Tserendulam  
Yu.Gereltuya  
J.Altantsetseg  
O.Amarzaya

G.Sukhee  
A.Naranbold  
Ch.Urantsengel  
Ch.Otgontsetseg  
Kh.Ainur  
L.Erdenebat  
J.Enkhbaatar  
P.Otgontuya  
S.Khunchin

---

**Address:** Sukhbaatar duureg-8, City Cultural Palace,  
Tower G, 3 floor Ulaanbaatar, Mongolia  
**Tel:** (976-11) 324627  
**Tel/Fax** (976-11) 324764  
**E-mail:** globe@magicnet.mn  
**Website:** www.globeinter.org.mn  
www.monitoring.mn

*Printed by "Free Press Foundation"*

---

*Published by Globe International in the framework of  
the project "Monitoring Free Expression Violations and  
Supporting the Rights of Independent Media" funded  
by Open Society Forum /Mongolia/ and OSI, Media  
Network Programm/ London/*

---



Photo Reporter



# *Table of Contents*

---

Introduction	5
<b>1. Guarantees of Free Expression</b>	7
1.1. Freedom of Expression and the Media	8
1.2. Restrictions of Freedom of Expression	10
1.3. Freedom of Information	13
1.4. Protection of Sources	14
1.5. Media Ownership	15
<b>2. Violations of Rights of Independent Media and Journalists</b>	17
2.1. Safety of Journalists	17
2.2. Attacks against Journalists	18
2.3. Denial of Information	22
2.4. Protection of Sources	22
2.5. Use of Defamation Laws	23
<b>3. Media Ownership</b>	26
<b>4. State secret information</b>	30
<b>5. First hunger strike in the media sector</b>	32
<b>6. Conclusion, what should we do?</b>	33
<b>Appendix. Hunger strike by journalists from Mongolian National Public Radio and Television</b>	35

## **Introduction**

We are pleased to present our second media freedom report for you. The first report was released in 2006. We would like to express our thanks to the Open Society Forum (OSF) and the Mongolia Network Media Program of the Open Society Institute (OSI) for their support in preparing this report.

Freedom of expression, particularly freedom of the media, is essential to a democratic society. A free and independent press is not a gift to people from politicians and authorities. A free and independent media is a fundamental human right of the people living in a democratic society. The government's duty before its citizens is measured by how it creates and maintains the necessary political, economic and legal environments to support a free press. Media and journalists do not serve the government and authorities. They serve the public and act as a public watchdog of governmental power and how it is wielded.

Despite the existence of laws and regulations that provide protection for a free media, in reality violations of freedom of the press and the professional rights of journalists continue to occur. When the professional rights of journalists are violated, it leads to restrictions of media freedom and prevents journalists from disseminating the truth, and thus causes serious harm to democracy and the public's interest. Even though it is prohibited by the law, censorship exists in open or hidden forms in Mongolia. Restraints placed on media outlets, and the necessity of journalists to serve individual interests, are intolerable actions that are contrary to the nature and principles of democracy.

It is common practice in Mongolia for politicians, officials and public servants to use provisions of the Criminal Code and Civil Law for media censorship. The courts, when making decisions about libel cases, do not take into consideration the legitimate right of the public to receive objective information, and instead generally support the authorities, creating doubts about the independence of the judiciary. Those in power use their authority and official positions to quash the truth in order to suppress fair criticism and to cover up their wrongdoings.

Mongolian journalists still cannot obtain information from government agencies, officials or employees, and they cannot access government documents. It is violation of democratic principles of governmental openness and transparency and citizens' rights to receive objective information. If journalists' rights are violated, even in the pursuit of the most basic information, it is extremely difficult for them to provide the public with accurate and in-depth information.

The lack of transparency of media ownership in Mongolia is contrary to the concept of pluralism and serves to foster hidden agendas and the provision of partisan information to the public, creating societal distortions and confusion. As a result, it is very difficult for

the Mongolian public to discern who is telling saying the truth and much confidence is lost in the media and journalists.

Journalists experience a range of pressures and interrogations that force them to disclose the identity of their sources, which in turn laces their sources of information under threat. As a result, the media cannot fulfill its role as a government watchdog. Society will never function effectively if the value of investigative journalism is undermined.

Attacks and threats to journalists' lives and property based on their pursuit of the truth should be considered a serious offence and a crime. Unfortunately, Mongolian police and the courts are unable to carry out their duties to determine the truth and impose proper punishments.

This report aims to highlight the current situation on how Mongolian journalists exercise their professional rights and what enabling environments exist for them to fulfill their duties to the public in a fair and responsible manner.

This report consists of three chapters. Chapter One contains information on national legislation that guarantees or restricts freedom of expression. Chapter Two includes facts and examples of violations of the media and journalists' rights that are based on monitoring results. Free-expression violation monitoring was part of our project "Monitoring Free Expression Violations and Supporting the Rights of Independent Media", which is supported by OSF and the Network Media Program of OSI, which has been running since October 2005. Monitoring is conducted in the capital city, Ulaanbaatar, and in 21 provinces through a national monitoring network. In 2007, a total of 37 cases of violations of the rights of the media and journalists were registered. In the chapter, we also included the opinions of journalists and lawyers expressed during project meetings, seminars and training, and also speeches and interviews by government officials and their views on the media; and studies on the use of defamation legislation. Chapter Three contains concluding remarks.



## **1. Guarantees of Free Expression**

### ***Constitution of Mongolia***

Freedom of expression is protected in Article 16 of the Constitution of Mongolia, which states:

The citizens of Mongolia enjoy the following rights and freedoms:

16) Freedom of thought, opinion, expression, speech, press and peaceful assembly. Procedures for organizing demonstrations and other assemblies are determined by law.

17) The right to seek and receive information except that which the state and its bodies are legally bound to protect as secret. In order to protect the human rights, dignity and reputation of persons and to ensure national defense, security and public order, the information which is not subject to disclosure must be classified and protected by law.

### ***Mongolia's Obligation to International Law***

Mongolia is a member of the United Nations and a party to the International Covenant on Civil and Political Rights (ICCPR). As such, Mongolia is legally bound to protect freedom of expression in accordance with international law.

This is formally recognized in Article 10 of the Constitution of Mongolia, which states:

1. Mongolia adheres to the universally recognized norms and principles of international law and pursues a peaceful foreign policy.
2. Mongolia fulfills in good faith its obligations under international treaties to which it is a party.
3. The international treaties to which Mongolia is a party become effective as domestic legislation upon the entry into force of the laws on their ratification or accession.
4. Mongolia may not abide by any international treaty or other instruments incompatible with its Constitution.

## 1.1. Freedom of Expression and the Media

The guarantee of freedom of expression applies with particular force to the media. It is mass media that makes the exercise of freedom of expression a reality.

The European Court of Human Rights has consistently emphasized the “preeminent role of the press in a state governed by the rule of law”.

In order to protect the right to freedom of expression, it is imperative that the media is permitted to operate independently from government control. This ensures the media’s role as public watchdog and ensures that the public has access to a wide range of opinions, especially on matters of public interest.

### **Media Freedom Law**

The Mongolian Parliament passed the Media Freedom Law on August 28, 1998.

Article 1
The purpose of this law is to guarantee freedom to freely express, freedom of speech and freedom to publish stated in the Constitution of Mongolia. <i>The Media Freedom Law of Mongolia</i>

Article 2 of this law prohibits adopting any laws restricting media freedom and freedom of media outlets. Article 3 bans censorship and obliges media outlets to take responsibility for their publications and programs, and Article 4 prohibits state ownership of mass media.

### **Law on the Public Radio and Television**

The establishment of the public broadcaster is the most important step taken by the Mongolian authorities towards consolidating media freedom in recent years.

The Mongolian Parliament passed the Law on Public Radio and Television on January 27, 2005, after seven years of delay. Parliament Resolution #103 on the implementation of the Media Freedom Law was issued on August 28, 1998, and provided for the dissolution of state-owned broadcasting and its restructure into public service.

The Law on Public Radio and Television came into force on July 1, 2005. The former Mongolian National Radio and TV was dissolved and a new public broadcaster, Mongolian National Broadcasting (MNB), was registered with the Ministry of Justice and Home Affairs on February 8, 2005.

Globe International’s Monitoring Report on the transitional process of the PSB is attached to this report as Appendix # 1.

### **Criminal Law**

The Criminal Law passed in 2002 states that it is a crime to interrupt lawful professional activities.



## Article 139

1. Subject that prevented journalists from their lawful, professional activities to disseminate or not to disseminate any information, which affects his or her own or other's interests, shall be fined for 31 – 50 times increased amount of the lowest level of salary, or shall be arrested for a period of 1 – 3 months.
2. If the above crime was committed using official position shall be fined for 51 – 100 times increased amount of the lowest level of salary, or shall be arrested for a period of 3 and more up to 6 months.

*The Criminal Law of Mongolia*

Several cases involving violations outlined in the above provisions of the Criminal Law were brought before the courts, but unfortunately no single case has yet been resolved. The 2006–2008 action plan of the “National Human Rights Program” included the joint issuing by the Supreme Court and Globe International NGO of the Supreme Court Interpretation of the above provisions of the Criminal Law. However, the Supreme Court of Mongolia, without consultation with the NGO, issued an interpretation on December 21, 2007 (the full text of the interpretation can be found on the website <http://www.globeinter.org.mn/?cmd=Record&menuid=4>).

Globe International's lawyer concluded in his commentary that in some respects the interpretation did not meet requirements.

- ✦ In general, this interpretation is not sufficient to provide uniform understanding and correct application of Article 139 of the Criminal Law. It contains mere interpretations of some terms and is therefore simply a glossary.
- ✦ In order to be objective and correct, the Supreme Court interpretations of crimes defined in the special provisions of the Criminal Law should use a criminal-law study approach, i.e. explain each element of the crime's composition. It would be extremely useful if the interpretation would explain crime composition, such as in regard to Article 139, social rights and interests suffered, forms of guilt (actual malice or carelessness), reasons for sentencing, and crimes committed by action or non-action.
- ✦ There are several logical mistakes in the interpretation. Article 139 stipulates that “Subject that prevented journalists from their lawful, professional activities to disseminate or not to disseminate any information, which affects his or her own or other's interests”. We see here actual malice, but clause 1.3 of the interpretation says “shall be understood action and non-action that prevented without reasonable cause”. The actual malice cannot be done “without a cause”, or aim, as we understand.
- ✦ In clauses 1.4 and 1.5 of the interpretation, the terms “disseminate to the public” and “not to disseminate” are explained, but they do not provide a legal meaning. Article 139 of the Criminal Law defines the term “disseminate to the public” in context with the act of forcing the journalist to disseminate information that is not objective that the journalist did not want to disseminate. However, the Supreme Court interpretation did not mention anything about this matter.

## **1.2. Restrictions of Freedom of Expression**

### ***State Secret***

In Mongolia state secrets are protected by a general Law on State Secrecy and a Law on the List of Secret Information. The Law on State Secrecy was passed in 1995 and it was last amended on January 2, 2004.

Article 3, entitled “The perception about state secrets”, provides the following definition: “State secrets” shall be reports, documents, substances, items and proceedings which were defined as state secrets according to Mongolian legislation, and contain in themselves information, divulgence of which will cause harm to national security in forms of definitions, illustrations, signs, technological solutions and are related to matters of foreign policy, economics, science, technology, defense, intelligence, counter-intelligence and secret operations of Mongolia.

Article 11 states: “The category of confidentiality of state secrets shall depend on the seriousness to harm state security and interests that occur as the result of their divulgence”, and state secrets fall into the following categories: Most confidential, confidential and classified.

Article 5 sets out five areas of secrecy – national security; defense; economy, science and technology; secret operations; and counter-intelligence; and procedures on the execution of criminals charged with capital offences, and the Law on the List of State Secrets protects 59 types of information (for instance, national-security related 19 items, defense 14, economics, science and technology 5, intelligence 15). 69.5 percent of the information is protected for 40–60 years and for indefinite periods.

Six types of information are categorized as most confidential, 24 as confidential and seven as classified, but 25 types of information do not belong to any of the categories.

The amendments made in the law about the List of State Secrets on April 23, 2004, provides for an indefinite period of protection for “entire information and documents related to the terrorism”.

It is a crime, punishable by up to eight years' imprisonment, if the disclosure of state secrets is especially harmful (Criminal Law provision 87.2).

### ***Organizational Privacy***

The Law on the Privacy of Organizations, adopted on May 16, 1995, extends the regime of secrecy to private organizations. This law effectively requires organizations to establish a regime of secrecy and to develop internal procedures to protect such secrets (Article 5.1). The impact of this is somewhat mitigated by Article 6 of the law, which lists a number of areas which may not be kept confidential. It is prohibited to withhold information if the information pertains to activities, products, services, techniques and technologies which affect the public health or environment, or contains information on poisonous or radioactive substances held by an organization which may cause public harm or harm the environment should its procedures on storage and protection be breached. The information also cannot be protected if it is about a crime or if it should be revealed to the public in accordance with law.

Article 164 of the Criminal Law makes it a crime punishable by a fine or arrest for a period of three to six months if financial secrets or secrets on activities are unlawfully obtained or disclosed. If the harm is substantial, it is punishable by up to three years' imprisonment.

### **National Defamation Law**

Article 16.17 of the Constitution, protecting the right to seek and receive information, allows for restrictions on these rights, including the need "to protect ... the dignity and reputation of persons."

Reputations are protected in both the civil and criminal laws of Mongolia. Criminal Law effective since September 1, 2002, in provisions 110 and 111, defines a crime of dissemination of libel through the media.

#### Article 110: Insult

A criminal charge of a fine for 20–50 times of an increased amount of the lowest level of salary or arrest for a period of 1–3 months shall be imposed, if others' honor and reputation is insulted in the public or through media.

*The Criminal Law of Mongolia*

#### Article 111: Libel

111.1 A criminal charge of a fine for 20–50 times of an increased amount of the lowest level of salary or arrest for a period of 1–3 months shall be imposed, if a clear statement on libel is distributed with a purpose to defame a person's honor and reputation.

111.2 A criminal charge of a fine for 51– 150 times of an increased amount of the lowest level of salary or arrest for a period of over 3 months or up to 6 months shall be imposed, if libel is distributed through media or if the crime on insult and libel is committed by a person who was criminally charged before.

*The Criminal law of Mongolia*

The aforementioned provisions of the Criminal Law were interpreted on October 29, 2007, by the Supreme Court of Mongolia through the provision of explanations to terms such as reputation and honor, insult and disgrace, libel, public, and previously convicted for crime. According to the Supreme Court:

The term "reputation" in provision 110.1 of the Article 110 of the Code shall mean evaluation by others of an individual's personality and ethics, business capabilities and his/her level of professionalism.

The term "honor" in the same provision shall mean the related individual's self-evaluation based on the evaluation of this individual by others.

The term "insulting" in the same provision shall mean actions contradicting with

standards of human relations and ethical norms, national traditions and customs established in the society, and deliberately discrediting the related individual's reputation and dignity. This shall be related to speech, actions, written forms, gestures and images discrediting the person in connection with the person's nationality, language, race, age, sex, social origin and status, wealth, occupation, health, religion, opinion, education, appearance, developmental disabilities or family status. Clause 1.6 of the interpretation states: "Insult is a crime of form, and therefore after the transaction it is considered as a completed crime". Clause 3.1 of the interpretation states: "If insult was caused by means of disclosing privacy, it shall be considered as a combined crime and additionally charged according to Articles 110 and 136 of the Criminal Code".

(The full text of the Supreme Court interpretation can be found on the website <http://www.globeinter.org.mn/?cmd=Record&menuid=4>).

Globe International does not accept the above interpretation as being sufficiently advanced. Our lawyer undertook a review of the interpretation and concluded that the terms of reputation and honor do not conform with international standards, and that the definition of insult and libel as a crime of form is not suitable. Specifically, the statement that "libel is the crime of form" means that if the libelous information is found to be false, the case will be considered a crime.

The Civil Law was amended in 2002 and protects a citizen's name, honor, reputation and business reputation.

21.2 If a person who distributed information defamed a citizen's name, honor, reputation and business reputation cannot prove its truth he or she shall be imposed to correct it through forms or means that such information was distributed, or other forms or means as demanded by a person whose right was violated.

*The Civil Law of Mongolia*

Civil Law Article 497, provision 1, states that "if due to illegal, malicious or careless action or non-action, harm was done to other's rights, life, health, reputation, honor, business reputation and property, the guilty person shall be responsible and restore the damage".

The Civil Law also states that a person has the right to highlight the damage caused if a citizen's image was published or shown to the public through photo, film, video, painting or other forms without permission (21.5).

There are no legal acts in Mongolia that provide for the higher degree of vulnerability of public officials to criticism. However, before the Criminal Law was passed in 1994, the Supreme Court of Mongolia issued a Suggestion on the Usage of Articles 7 and 392 of the Civil Law. Provision 13 of the suggestion states: "Public criticism on the concept and activities of state and government institutions and its officials does not mean defamation of the institutions and officials, but it can be considered if the criticism is over standards concerning the defamation of another's honor or if it leads to such a situation."

At present, there is no information available on whether the suggestion is valid in relation to the 2002 Civil Law.

### **Other Restrictions**

In Mongolia, there are numerous laws restricting freedom of expression and information. According to the Legal Analysis jointly conducted in 2001 by Globe International and international London-based NGO Article 19, there were 91 such laws and law provisions. Below are a few examples by which journalists can be criminally charged for breaches of the Criminal Law:

In accordance with the Criminal Law, a criminal charge of a fine and arrest for up to three months shall be imposed, 'if privacy is disclosed' (136.1), 'if obscenity is advertised' (123), 'if citizen's correspondences are violated' (135), 'if extreme religious ideas are advertised or distributed' (144.1), and 'if facts of criminal cases are disclosed without the permission of inspectors, detectives, prosecutors and judges' (257.1).

In the case of advertising war or calling for war, a criminal charge of arrest for one to three months shall be imposed. If it was committed by using the mass media or by state officials, a criminal charge of imprisonment for two to five years shall be imposed.

231: Insulting state officials and public inspectors for social order

231.1 A criminal charge of a fine for 5–50 times of an increased amount of the lowest level of salary, or forceful works for 100–150 hours, or arrest for a period of 1–3 months shall be imposed, if state officials and public inspectors for social order are insulted before the public in relation to their duties.

*Criminal Law*

State officials, as defined in this law, are judges, prosecutors, inspectors, detectives, policemen, customs and tax officers, and other state inspectors who have special powers by law.

### **1.3. Freedom of Information**

Even though state secrets and the secrets of organizations are protected by law in Mongolia, the country does not yet have a Freedom of Information law. In 2002, Globe International launched a program to disseminate the concept, principles and international standards of Freedom of Information with support from the Mongolian Foundation for Open Society (the present Open Society Forum), the US Embassy and AUSAID. In 2004, the first draft law was submitted to the Ministry of Justice and Home Affairs. The draft law was included in the Parliament's agenda in October 2005, but it is yet to be debated.

In October 2006, Cabinet discussed submitting the draft law to Parliament, but postponed it due to the need to include the issue among information–dissemination and information–security issues.

In the aftermath of World Freedom of the Press Day on May 2, 2007, four Members of Parliament drafted and submitted the Law on Freedom of Information, but it is still pending in Parliament.

According to a 2007 Globe International study, there were 120 provisions requiring accessibility of information in the current laws of Mongolia.

#### **1.4. Protection of Sources**

In a democratic society, the protection of journalistic sources is the main tool for the media to exercise its watchdog function. But unfortunately in Mongolia there is no legislation guaranteeing the protection or confidentiality of journalists' sources. The Confederation of Mongolian Journalists adopted protection of sources in its Code of Conduct, but it is not enacted in practice.

Globe International conducted a survey among 203 (72 males, 131 females) journalist who are actively cover news and political and social issues to evaluate forms of interaction between reporters and confidential sources, the obstacles in protecting them, the effects of criminal defamation law on protection. Thirteen percent of those surveyed said they regularly used confidential sources: 40 percent in most of publications/programs, 43 percent only occasionally as needed. Only four percent never used confidential sources. The use of confidential sources is double in Ulaanbaatar compared with rural media. Classified by the type of media, newspaper reporters use confidential sources more frequently. Male journalists use confidential sources more than females. It is common that journalists with two to three years of professional experience use confidential sources more often than others.

Of the 195 journalist who used confidential sources, 45.6 percent said the information they obtained was reliable in any circumstances; 43.1 percent only use them if no other sources are available. For journalists who frequently use confidential sources, the reliability of the information is most important, whereas those who use them less frequently are doing so only because they lack other sources. Of those 195 journalists who use confidential sources, 53 percent have regular contact with their sources.

The use of regularly established relations with confidential sources increases with the length of time they have been working in the media. Of the 195 journalists who use confidential sources, 62 percent trusted the source but verified the information from other sources; 9 percent fully trusted the source and did not verify the information; 20 percent immediately published or broadcast the information if the issue related to public interest; and 4 percent used the information even though they did not trust the sources, believing that it was necessary.

Seventy percent of those 195 journalists never made any promises to their sources; 52.3 percent interacted with their sources based on mutual trust; and 12.8 percent signed agreements with their sources.

Of those journalists who regularly used confidential sources, 69 percent asked about the purpose of disclosure; 31 percent did not.

Forty-one percent of journalists were not sure that they would be able to protect their sources. This breaks down to 37 percent of 174 journalists from Ulaanbaatar, and 71 percent of the journalists from rural areas, revealing that local journalists face more pressures.

Journalists fear that disclosure of confidential sources will cause: loss of job (56.4 percent), danger to health, body or life (39 percent), loss of reputation (32.8 percent), risk for their family (16.4 percent), damage to property (7.7 percent). Of the surveyed journalists, 38 percent were required to reveal their confidential sources. This percentage represented 37 percent from Ulaanbaatar and 48 percent from rural areas. For 74 journalists, the pressure to reveal their sources came from police (39.4 percent), courts (29.7 percent), politicians and government entities (43.2 percent), CIA (10 percent), and individuals, political parties or movements (35.2 percent). Requests came also from NGOs and international organizations (6.8 percent).

Forty-five of the journalists were required to reveal their sources (23 percent). Many of them (40.9 percent) did so through demands from the courts. The reasons for disclosure were: safety (28.9 percent), pressures and threats from the courts (24.4 percent), not to be dismissed from job (20 percent). A small number of journalists disclosed their sources because they believed that the courts would not reveal the name of the source or that they would not be imprisoned.

In relation to information from confidential sources, 29 percent of the journalists surveyed were involved in civil or criminal cases. The plaintiffs filing suit against the journalists were individuals who were mentioned in the publications/programs (49 percent), their lawyers or trusted persons (30 percent), political parties or movements (four4 percent), and other subjects (nine percent).

31 journalists (15 percent) were summoned to appear at court proceedings and testify as witnesses.

Globe International initiated the drafting of the Protection of Journalistic Sources Law in October 2007.

## **1.5. Media Ownership**

In Mongolia there are no laws regulating cross media ownership or media concentration, transparency of ownership. And there is no general broadcast law.

According to 1998 Media Freedom Law state owned mass media was prohibited, government newspapers were privatized, and currently government broadcasting is in the process of transformation in to public. Parliament Resolution on the enforcement of the above law provided that the only media which remain state-owned – MONTSAME, the only nation-wide news agency – shall be transformed into publicly owned. But until now it remains government controlled and continues to publish newspapers “Mongol Messenger” (in English), “Novosti Mongolii” (in Russian), “Mongu Siasibao” (in Chinese), “Mongoru Tsushin”(in Japanese), “Khumun Bichig” (in old Mongolia script), daily news bulletin “MONTSAME” (in Mongolian language).

Media is regulated by Civil Law and Company Law of Mongolia.

Article 5

1. Mongolia shall have an economy based on different forms of property and answering both universal trends of world economic development and national specifics.

2. The State recognizes all forms of both public and private property and shall protect the rights of the owner by law

*From the Constitution of Mongolia*

Provisions on different forms of ownership ("public and private") in the Article 99 of the Civil Law :

- ✦ public property shall have forms of government, local, religious, general public (99.2.),
- ✦ public and private property can be combined (99.4.).

Article 25 of the Civil Law provides that legal entity can be for profit and non-profit.

Only law that provides clear ownership form is the Law about Public Radio and Television. According to Article 16 of this law, property of the Mongolian National Public Radio and Television is public property. But as provided in the Civil Law (Article 33), legal entity can have form of partnership, company, union, foundation or cooperative, and therefore to some extent contradicts with the Law about Public Radio and Television. And thus the Civil Law appears to be outdated and needs to be amended accordingly.

In 1997 NGO Law was adopted and quite a number of media outlets have an NGO status. HGOs are registered with the Ministry of Justice and Interior, and they are of two forms: serving the society and serving own members.

Article 4.

Non-Government Organization is any legal entity that is different from government (legislative, judiciary, executive branches) that is formed on voluntary base, and based on society's or own members interests and ideology, and it's activities are independent from the government, self regulated and not for profit.

*From the NGO Law*





## **2. Violations of Rights of Independent Media and Journalists**

Globe International has conducted Free Expression Violation Monitoring supported by OSF and the Network Media Program of OSI since October 2005. A total of 80 violations were registered; 37 of them in the reporting period.

Even though censorship is banned and the interruption of the professional activities of journalists is a crime in accordance with the law, it does not work that way in Mongolia. The various violations of journalists' rights (attacks, pressure to reveal sources, etc.) are evidence that Mongolian journalists work in difficult conditions and complicated situations.

Some journalists do not want Globe International to draw attention to their cases. They are highly self-censored and are afraid of further possible attacks and assaults. Bearing this in mind, we were not able to include all cases in this report.



G.Uyanga, chief-in-editor, Uls Toriin Sonin

I cannot say there is media freedom in Mongolia. There cannot be any freedom, when journalists work in condition, where no economic independence. Almost all media outlets are controlled by the influential and rich people. Media freedom does not mean a number of the press. I wish to repeat the true words saying that journalists cannot be free, if they work in conditions of fear, poverty and corruption. If journalists do not fight for themselves, no one will do it

### **2.1. Safety of Journalists**

Journalists routinely receive threats to their personal safety. We are deeply concerned that the intolerance towards journalists appears to have increased. The majority of journalists do not want to draw attention to the situation in case of possible future assaults. Unfortunately, none of the incidents have been investigated by police.

Editor of Orkhon province newspaper "Shine Medee", D. Tsend-Ayush, was beaten by a group of four to five young people at around 11pm on his way home on March 22, 2007. His attackers took documents from his briefcase, but not his identification. He

was unable to go to work the next day. Tsend-Ayush said: "I can't tell if this attack was related to my work. But why didn't the attackers take my expensive cell phone and only my documents?" He did not report the assault to police.

Based on citizens' information that "Chinggis 3" restaurant, located in the Sukhbaatar district of Ulaanbaatar, was serving food containing insects, "Niigmiin Toli" photo journalist S. Tuul went to the restaurant to investigate. She was able to enter the kitchen and take pictures of the dirty environment and dishes crawling with insects. When she was about to leave, the restaurant manager stopped her, saying: "You entered my organization in secret and took pictures in the private restaurant without permission". He then broke her camera and hit her in the head. Tuul told the coordinator of the Globe International network that she had suffered recurring headaches since the incident. She went to the Sukhbaatar district police on three successive days to register a complaint, but was denied by police officer Gankhuu, who allegedly told her: "You journalists don't know where and what you should do. Why did you take pictures at your will without permission?" Based on the "Niigmiin Toli" report and citizens complaints, Capital City Professional Inspection agency inspector N. Valia investigated the restaurant and concluded that it did not comply with sanitary standards, that food quality was poor and the cooks were not professionals. The restaurant's operations were suspended.

## **2.2. Attacks against Journalists**

Attempts to pressure, influence and intervene in journalistic activities are evidence that censorship is a reality in Mongolia.

Attacks against journalists occur in many ways, including threats, insults, detainment, arrests and assaults. Statements and public denials in newspaper publications and on broadcast programs are common ways in which the Mongolian authorities create confusion in society.

The private sector and ordinary citizens are also trying to interrupt news gathering and the reporting of public events. In addition, the increase of court and police pressures illustrate that it is becoming increasingly difficult for the development of an independent media.

The duty of government officials, public employees or authorities to the citizens of Mongolia is the unanimous fulfillment of the provisions of the Constitution of Mongolia and the international treaties to which Mongolia is party.

Globe International is constantly highlighting instances of violations and demands responsibility be taken by those who prevent journalists from exercising their legal rights to seek, process and disseminate information to the public. Globe International regularly issues press statements and sends official letters to authorities, but unfortunately no progress has thus far been made. Here are some examples:

On January 18, 2007, the head of the Bayan-Ulgii aimag Intelligence Agency, Kh. Enkhsaikhan, demanded that the local branch of the MNPRT, the local public radio station, read an obituary in Mongolian by an agency employee.



*By O. Ragchaasuren, Darkhan*

Journalists who spread the truth are mainly accused by government officials. When journalists access reliable sources of information and publish the truth, officials pressure them by suing them or demanding money or big fines. But on the other hand, the fact that local journalists are attacked less means that they are maybe less courageous in fulfilling their duties to serve people, are less committed to their professional rights and duties.

Staff at the radio station suggested that the obituary be read in Kazakh or in Mongolian by a radio station professional broadcaster. In response, the head of the Intelligence Agency called the director of the station to his office on January 23, 2007, and threatened him with detention. In addition, he repeatedly asked: "Who gave you permission to broadcast in Kazakh?" And: "What is the Kazakh language?" He continued in the same vein, saying: "Why do you have a right to broadcast in the Kazakh language in the territory of Mongolia? In future, you should inform us about the content of your programs."

The director of Dornod aimag local TV program "Shine Suvag", journalist S. Delger, broadcast a paid program by the Citizen's Will Party about its moves to make the local governor resign. On May 4, 2007, at 11.30pm, when the journalist returned home, she noticed a threatening note on her door saying: "We will kill you." The next evening, insulting words were spray-painted on the walls of her apartment hallway. Delger informed police about the incidents, but no action was taken.

On June 19, 2007, L. Munkhbayasgalan, a reporter with "Daily News" newspaper, published an article entitled "The Ministers who should have been looking for crashed helicopter were dancing at U. Khurelsukh's birthday party". At 10.28pm that evening, MP U. Khurelsukh, the Deputy Minister of Professional Audit, called the reporter from his mobile phone and said: "I am Khurelsukh. Why are you writing such a strange things? You write about too many things. I forgave you many times, but not this time. I'll kill you, you'll see". In her article, Munkhbayasgalan provided facts about firemen who had died in an accident while on duty, and that instead of responding to the emergency, the Ministers in charge danced at Khurelsukh's birthday party.

B. Aasuren, a reporter with Dundgobi aimag newspaper "Goviin Amidral" was called to the office of local administration department head B. Enkhtuya on March 13, 2007, and was told that: "No news about the People of the Year appeared in the newspaper. The activities of the aimag governor were not covered properly and government information is not sufficiently covered." Aasuren was censured because he did not appear on time, but responded by saying: "I am not a government employee." Aasuren was allegedly told that unpleasant things could be done if they wished.



*By Yu. Gereltuya, Globe International monitoring team member  
in Khuvsgul aimag*

We have a right to inform people for the public interest. Khuvsgul aimag is considered to be the cradle of Mongolian democracy, and maybe that's why there are so many media outlets and pluralism is flourishing. Currently we have four television stations, two newspapers, five FM radio stations and one regional radio station. Forty people are employed at aimag media with the aim of providing intellectual "bread" for the population. The rights of journalists in rural Mongolia are frequently violated, but our journalists don't complain loudly because we think that, for local journalists, being under attack has become a daily routine. The reality of rural Mongolia is that with the small population, almost everyone knows each other, and therefore journalists who tell the truth often face pressure, by phone or through intermediaries, on themselves or their family members.

During a press conference on January 11, 2007, Minister of Trade and Industry B. Jargalsaikhan pointed to a television cameraman and said: "You are filming too close to my face, and you stand in an improper pose in front of a Member of Parliament on government premises." He refused to answer a question by a TV-5 journalist. He also said that the "Daily News" newspaper had insulted him for 16 years, and that he could prove it issue by issue. He continued, saying that: "You lied that our government administration head S. Batbold illegally granted an Asgat deposit license and received three jeeps as a bribe for this. You wrote false information that the Mongolian President went to Russia to give Oyu Tolgoi and Tavan Tolgoi deposits as a present. I called this meeting because you attack us too much and insult us." He then said: "You always label me as the Minister of Interest. I am not; I am Minister of Trade and Industry. And because of you, relations with our two neighbors are worsening." A confused journalist tried to interrupt the minister by asking a question about the Asgat silver deposit license, but was halted by the Minister, who said: "This is not a proper question for journalists." The journalist subsequently left the press conference accompanied by accusations from the Minister.

J. Chimidtseren, a reporter with the Khuvsgul aimag newspaper "Erkh Chuloo", wrote in issue No. 8, March 20, 2007, under the pseudonym J. Burenbekh an article entitled "Do we have democracy in the aimag court?" criticizing judge N. Sarangun. The article was based on a case related to the reporter. In response, aimag chief judge Z. Khosbayar and inter-soum chief judge M. Narmandakh called the editor-in-chief of the newspaper, Yu. Gereltuya, to the court's office and threatened her, saying that they would 'sue the newspaper in order to restore the court's name'.

On January 24, 2007, the Press Office of the Mongolian President made a statement

in relation to a report in the newspaper "Daily News" in which it strongly warned not to infringe upon the powers and reputation of the President and requesting an apology, and that if none was forthcoming, it would take the matter to court. The article in question was published on January 19, 2007, and was entitled "N. Enkhbayar's political revenge". It referred to President N. Enkhbayar ownership of shares in the Trade and Development Bank and about his circle's money being poured into the bank, and that the President sold his shares to the company that won the privatization bid, and as a result he lost control over the bank.

On May 15, 2007, in issue No. 044 of the "Ardchilal" newspaper, an interview was published with a female victim of underage forced sex labor at "Yalalt" hotel in the Songinokhairkhan district of Ulaanbaatar. The girl had allegedly approached local policeman B. Baatarsuren three times, providing information about the crime and seeking help, but his response was: "You, yourselves, are engaged in a dirty deal. I will detain you if you continue to complain." SBN TV journalist B. Tserendolgor broadcast a follow-up report about the brothel, prompting the district police department to call SBN TV several times, saying: "You are discrediting our police badly. We will take measures on behalf of B. Baatarsuren. You should not broadcast about any more about us." Baatarsuren went to the SBN TV office along with the hotel owner and met with the station's management, demanding that they present Tserendolgor, claiming that the journalist's report had damaged his reputation. The hotel owner complained that his hotel's revenues had fallen because of the report.

Nationalist movement "Dayar Mongol" believes they should rebel against the mixed blood Chinese who hold numerous positions of state leadership. The movement's executive director called a press conference, but when TV-5 reporter D. Enkhtsetseg asked him a question, he said: "I don't answer questions by Chinese mixed bloods like you."

On November 1, 2007, Darkhan-Uul aimag's "Orkhon TV" reporter D. Munkhtur was returning from taking pictures of a water-purifying facility when he was stopped by a guard from the "Darkhan SB" security company. The guard forcefully entered the reporter's vehicle to confiscate his videotape. Munkhtur had been doing a follow up report after the water-purifying facility was criticized for not functioning properly two weeks earlier on the local "Lkha" TV station. While searching for the tape, the guard allegedly said: "I will confiscate the tape because you did not get a permit for recording from me." The facility is not fenced and open to anyone. The main engineering facility is surrounded by fences; the "Darkhan SB" security post is located at the entrance.

Ch. Lodoi, a photo journalist from the newspaper "Century News", was taking photos of a car just outside Government House. He was approached by a State Special Security guard, who escorted the reporter to the security post, then forcefully took his camera and destroyed his photos. When Lodoi asked him why, the guard said: "It is prohibited to take pictures of someone's property", and added: "If you do it again, we will confiscate your camera."

On October 10, 2007, Khuvsgul aimag newspaper "Erkh Chuloo" published in its column "Tsookhor Bogts" an article that criticized land issues. The head of aimag's

administrative department, Sh. Yanjindulam, accused the writer of disgracing her reputation and demanded a meeting. She also sent a letter to the newspaper demanding punishment for journalists who disseminate false information, and requested a correction be published in the next issue of the newspaper.

### **2.3. Denial of Information**

In a democratic society in which the government serves the people and respects citizens' rights, information about government, its activities and documents should be open and accessible to the public. Even though Mongolia does not have a special Law on Freedom of Information, citizens should freely enjoy their constitutional rights to seek, receive and disseminate information.

In its first session in 1946, the UN General Assembly adopted Resolution 59(II), which stated, "Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated".

Journalists are acting on behalf of the public in order to disseminate information to them. Unfortunately, denial of information by public officials in Mongolia is very common.

Within the framework of the event "Mongolian children together with their parents", planned to be held on International Women's Day, the Parliament, the National Center for Children's Rights, Mongolian National Public Television and TV-5 are jointly preparing a series of programs about children living outside of families and without care. Journalists J. Altangerel (MNPTV) and D. Dorjmaa went to international shelter homes seeking children for their report, but were denied information and rudely turned away.

The staff of the US-sponsored children's orphanage "Mother Teresa" did not allow MNPTV journalist J. Altangerel to enter the facility, locking the door and saying: "All the children are at school, nobody is here". The staff of the German-sponsored orphanage "Ugoomor" pushed journalist D. Dorjmaa from the door and attempted to take away her camera. They also released two large watchdogs.

When "Daily Newspaper" journalist G. Erdenetuya was reporting in the central province from the site of a helicopter crash, policemen prohibited her to take photos. Member of the Parliament Ts. Bataa was on the helicopter, hunting, when it crashed. A day later at a press conference, Ts. Bataa said: "Poorly educated journalists distort our work." Later, at a Parliament Session, he attacked journalists calling them idiots and saying that "they should not be allowed to enter Government House".

On June 20, 2007, a two-year-old child died in a fall from the stairs at Nomin supermarket. Several reporters went to the supermarket to find out more information about the accident, but security staff refused to allow them to take photos or provide any information. They also tried to take away journalists' TV cameras and damaged Eagle TV cameraman Uuganbayar's equipment.

### **2.4. Protection of Sources**

In Mongolia, it is normal for journalists to be ordered to reveal their information sources. The first question asked by those affected lodging complaints, advocates and

judges is: "Who gave you this information?" In most cases, journalists are threatened with arrest, imprisonment, court cases and police involvement. They also receive threats to their families and their lives. There are incidents in which journalists are pressured to reveal their sources. Journalists are generally afraid of reporting these violations.

Khovd province newspaper "Khovdiin Medee" on three occasions reported information from confidential source that D. Tsereg, director of secondary school No. 6, took bribes in the amount of 500,000 tugrugs (USD \$427) from newly employed teachers. Later, information about those giving and receiving bribes was published in the national daily newspaper "Century News". This prompted one teacher who was mentioned as a giver of bribes to go to the "Khovdiin Medee" office and say: "You should have shown the material to us before publishing. We will sue you. If you won't name the source of your information, we will rally in front of your office". The teacher also demanded a correction be published stating that they did not give bribes. Tsereg also went to the newspaper office and said: "Information was published in a nationwide newspaper. Who gave you the information?" He demanded the name of the source. The case is currently being investigated by aimag police.

The November 11, 2007, issue of the newspaper "Dornod" from Dornod province ran an article entitled "The business of women trafficking is flourishing". It said: "A once-cherished Miss Mongolia of the '90s who brought fame to her home province went to bed with foreigner and was then thrown off a balcony, causing her to become disabled." Winner of the 1994 Miss Mongolia Copper Crown, G. Tuul, identified herself in the article and appealed to the court to restore her reputation. In the '90s there were four women who received Miss Mongolia titles, including Tuul. At the court hearing, Tuul's lawyer several times demanded that editor-in-chief of the "Dornod" newspaper, B. Tuya, reveal the source of her information. The Kherlen soum court of Dornod aimag tried the case and convicted Tuya of libel and confiscated newspaper property on September 5, 2007.

## **2.5. Use of Defamation Laws**

In most countries, the burden of protecting an individual's reputation lies with the individuals themselves. International standards provide that: "It is not necessary to consider libel as a criminal offence since this leads to limitations of the freedom of expression." In many countries, public officials use the criminal and civil defamation legislation to censor critics or resolve disputes.

52.2 percent of all defamation cases were initiated politicians, high-ranking government officials, government employees or employees from government agencies. Of the eight criminal cases, four of the plaintiffs were Members of Parliament and two were high-ranking officials. 9.6 percent of the court cases were won by journalists and media outlets, 54.8 percent were lost, and 35.4 percent reached a consensus.

Globe International has repeatedly stated that journalists should not face criminal charges for what they write. But unfortunately, legislators have no political will to make changes to the Criminal Law they passed in 2002.





*G. Dashrentsen, "Odriin Sonin" (Daily News),  
daily newspaper*

I have been accused seven times under the criminal defamatory laws, and Globe International has provided consultancies in four of them. It is the Globe International that deliver its voice for the journalists and protects them. It is the Globe International that makes their efforts for the development of the independent press.

According to a Globe International survey among 203 journalists from central and local media, 25 percent were accused under the criminal provisions on defamation and insult. The percentage represents 25 percent from Ulaanbaatar and 27 percent from rural areas. Of all the cases, 56 percent were dismissed during the investigation, 22 percent during court proceedings, and 6.1 percent at the procurator's stage. 42.9 percent were convicted. 70.9 percent of the plaintiffs were politicians, government officials or government agencies. The following are illustrations of cases against journalists and media:

The civil case involving plaintiffs MP Kh. Battulga and Genco group director Kh. Battuul, against "Political Newspaper".

The "Political Newspaper" was called as defendant to the Chingeltei District Court by plaintiffs MP Kh. Battulga and Genco group director Kh. Battuul. The "Political Newspaper" was accused of publishing a defamatory statement in the 2007 issue 026(086) and 028(088) publications. The content of publications was: Russian oligarch Oleg Deripaska transferred USD \$850,000 to the Hong Kong Kowloon bank account of Kh. Battulga's company in order to invalidate ownership of the "Energy Resource" company's shares in the Tavan Tolgoi coal deposit. This money was used for financing civil movements and public relations for Battulga. This information was claimed to have discredited the plaintiff's reputation and as a result Battuul requested that the court rule on the recovery of non-material damage and order the newspaper to publish a correction. Battulga asked the court to reveal the source of information, make the newspaper apologize and pay damages in the amount of 100 million tugrugs (USD \$85,470).

The defendant's ("Political Newspaper") lawyer, Capital City Attorney's Council head E. Bolorchuluun said at the hearing on December 4, 2007, that the defendant was not able to find the documents related to the complaint itself and requested the court to obtain documents in question, i.e. the existence of the Hong Kong bank account in the name of Kh. Battuul and Kh. Battulga, and the transfer of USD \$850,000 to the account. The court accepted the request and agreed to reconvene. The court made a request to the Central Bank to provide documents for evidence, but was told that it was not possible.

At the hearing on December 18, 2007, the defendant side named the source of their information, and e-mails received by "Political Newspaper" were subsequently searched in the presence of the plaintiffs, lawyers and court representatives. Bolorchuluun was



able to prove that the defendants reputation and honour were not discredited and they did not suffer any damages. This was not reflected in the verdict and the paper was found guilty and ordered to pay Battulga 1 million tugrugs (USD \$854).

Criminal case initiated after a complaint by MP Ch. Ulaan in relation to N. Demberel

A criminal libel (Article 110 of the Criminal Law) and insult (Article 110 of the Criminal Law) suit was initiated against former Government Press Office head N. Demberel. In the first hearing, Demberel was sentenced to four year's imprisonment. His lawyer, M. Altan-Ulzii, appealed to a higher court, which amended the verdict to a fine of 997,000 tugrugs (USD \$852 USD).

The suit was launched after the paid program entitled "Red-Eyed Oligarchs" aired on March 7, 2007, on the television stations "Channel 25" and "NTV". The program was prepared using reports from daily newspapers and contained information criticizing President N. Enkhbayar and MP Ch. Ulaan.

Ulaan filed a complaint with police on the grounds of the provisions of insult and libel under the Criminal Law and requested that his reputation be restored. The criminal case was initiated by police colonel M. Ariunbaatar on May 1, 2007.

During the investigation, Demberel was identified as a suspect, and when questioned on June 29, 2007, admitted that he had prepared the TV program in March 2007.

Criminal case initiated after a complaint by MP Ch. Ulaan in relation to B. Tsognemekh and B. Ganbold



*B. Tsognemekh, head of division of social and foreign affairs,  
"Zuuny Medee" daily newspaper*

Journalists wish the government to repeal the libel and insult provisions of the new Criminal Law passed in 2002. Mr. Ch. Ulaan, MP sued me using these provisions. He wanted to hide his wrong-doings and threaten us. We did not give up. It is not fair that authorities interpret the legislation in their favor and use as toll of their protection. I am thankful to all my colleagues. Unfortunately, the authorities did not understand that it was not a fight for me. It was struggle for the free press; for balance and objectivity.

A criminal libel (Article 110 of the Criminal Law) and insult (Article 110 of the Criminal Law) suit was initiated against a "Century News" newspaper journalist. The case was reviewed by Capital City procurator Batbold and dismissed.

The reason for the complaint were reports in "Century News" issue 228 of September 22, 2006, issue 19 of February 5, 2007 and issue 54 of March 5, 2007, criticizing the head of the Parliamentary Standing Committee on the Budget, MP Ch. Ulaan.



### 3. Media Ownership

In Chapter One we stated that there were no laws regulating cross-media ownership or media concentration, transparency of ownership in Mongolia. There is also no general broadcast law.

Under the 1998 Media Freedom Law, state-owned mass media was prohibited and government newspapers were privatized. Currently, government broadcasting is in the process of being made public. The only media which remains state-owned is Montsame, the only nationwide news agency. According to 1998 Media Freedom Law, Montsame should to be converted into public media, but it continues to publish the newspapers "Mongol Messenger" (an English-language newspaper), "Novosti Mongolii" (a Russian-language newspaper), "Mongu Siasibao" (a Chinese-language newspaper), "Mongoru Tsushin", "Khumun Bichig" (in Mongolian old script), and a daily news bulletin "Montsame".

On December 15, 2005, the Cabinet decided to transfer Montsame, which is a government agency, to the Ministry of Foreign Affairs and present the decision to the Parliament for discussion. As yet, no decision has been made regarding the status of the Montsame news agency.

The only foreign-investment media in Mongolia is the US company EBC, or Eagle TV. After two years of suspension, Eagle TV resumed its operation in 2004 and broadcasts a solely news-based channel. Eagle TV widely covers civil movements and provides live broadcasting for viewers' opinions.

Of a total of 73 broadcasters, 63.5 percent are privately owned.

In recent years, there has been growing speculation among the public about the hidden owners of radio and TV channels, namely influential politicians and wealthy businessmen.

Ts. Nyamdorj, former Speaker of the Parliament

I do not understand those comrades who are much too involved with the media. I know that behind the new television stations there are always politicians involved. It is meaningless to determine their personal influence to the society through media. It will be enough to have three to four television stations in Mongolia. In China there are only five to six.

Source: Interview published in "Onoodor" daily newspaper, No. 228(2882), 29/09/2006

The only person who openly stated his ownership in the media is Mongolian President N. Enkhbayar. In interviews given to TV-5 and "Onoodor" newspaper (May 5, 2006), he admitted that during a Buddhist ceremony, the Japanese religious organization Agun Shu presented him and the head of Mongolia Gandan monastery, D. Chojjamts, with a TV studio. And later, jointly with MP Ts. Munkh-Orgil, who had a channel permit, he founded TV-9.

According to the Anti-Corruption Law adopted on July 6, 2006, Article 14, those filling 20 high-ranking government positions should file their income declarations openly for the public. According to daily newspaper reports, until now, nobody, including the President, Members of Parliament, the Prime Minister and other high-ranking officials, have declared any media ownership.

Globe International conducted a study on the ownership and structure of 74 broadcasting organizations. Surveyed were 19 TV stations and 12 radio stations in Ulaanbaatar, and 24 TV stations and 19 radio stations in the countryside. For transmission, 21 percent of radio stations and TV stations used cable, 51 percent ground transmission stations, and 20 percent satellites and shortwave. Among TV stations, transmission is carried out in the following manner: 47 percent by cable, 44 percent by ground transmission stations, and nine percent by satellites. Among radio stations, transmission is carried out in the following ways: three percent by cable, 61 percent by ground transmission stations, and 35 percent by shortwave.

Coverage of radio and TV: 14 percent of TV stations have nationwide coverage, and 65 percent in aimags and cities; for radio: three percent have nationwide coverage, and 76 percent in aimags and cities.

Of all broadcasting stations, 37 percent are privately owned, 32 percent were founded on the initiative of private organizations. 10.8 percent belong to state organizations and 8.1 percent were founded with the support of international organizations. By types of ownership: 63.5 percent are limited liability companies, 18 percent are community organizations, 12.2 percent are NGOs and 2.7 percent are state run. The remaining percentage is comprised of other types of ownership.

By management structure: 52.7 percent are headed by individuals, 28.4 percent by an executive board, 14.8 percent by a board of directors, and 4.1 percent indicated that certain organizations are managing their broadcasting.

In 2007, an interesting dispute occurred in relation to media ownership and editorial independence. The following is a brief review of the content analysis conducted:

Content analysis was carried out on nine daily newspapers in the period from July 25 to and October 1, 2007, and covered 28 articles related to the dispute between Mongolian President N. Enkhbayar and MP U. Khurelsukh.

The controversy started at the Mongolian People's Revolutionary Party (MPRP) parliamentary caucus meeting on July 23, 2007, when the Member of Parliament said: "President N. Enkhbayar is a man who should be in the prison." On August 1, 2007, Khurelsukh published in the daily newspapers an open letter to the President of Mongolia.

In response to this, the President's press representative made a public statement. The national movement "Soyombo" also issued a statement.

In his open letter, Khurelsukh wrote that "TV-9 television and "Century News" newspaper are owned by N. Enkhbayar and his wife O. Tsolmon. They are registered in the name of his wife's relative, wrestler Ganbold. The policies and direction of those organizations are provided from the top." Khurelsukh asked the President following questions:

- Is it your position when TV-9 and "Century News" are publicizing libel and insulting people's reputations?
- If TV-9 and "Century News" are your property, would you explain to the public how you acquired them?
- An article published in your private newspaper "Century News" was entitled "People can enjoy their right to govern well without MPRP".

"Century News" journalists responded to this on July 25 and August 1, 2007, with their own statement entitled "To conscience policeman U. Khurelsukh", in which they wrote: "We stated very clearly that 'Century News' newspaper will continue to protect the interests not of politicians, but of citizens; not of political parties, but of the public; and will be a free forum for civil society ... Our journalist expressed his own view as a citizen that 'People can enjoy their right to govern well without MPRP' and we will not let his views be censored by a mentally ill policeman".

Of all information included in the content analysis, 46.4 percent stated, albeit with no proof, that the media outlets mentioned were property of the President and his family, 14.4 percent denied it, and 39.2 percent did not mention the issue at all.

Reacting to the statement by Khurelsukh, the President's press representative wrote that the President had never hidden the fact that he was among the founders of TV-9 and "Century News". "These media were legally registered and operated within the law, have independent information and editorial policy, and are not the private property of President N. Enkhbayar".

Former Speaker of the Parliament Ts. Nyamdorj spoke out in support of U. Khurelsukh's statement at the Mongolian People's Revolutionary Party parliamentary caucus meeting on July 23, 2007, saying: "It is true that Enkhbayar does this. He cheats, along with Mongol Bank's Chuluunbat. I've got a proof of what I once said about the President controlling the media. The President personally tells his newspaper what to write about government and Ministers."

In its statement ("Daily News", August 10, 2007, No.188) supporting Khurelsukh's letter, the national movement "Soyombo" wrote: "President N. Enkhbayar until now did not disclose to the people where he got the capital sources for his private companies TV-9 and Century News, which are valued at billions of tugrugs'. An article in the newspaper "Ardiin Erkh" (July 30, 2007, No.146) mentions that the head of the MPRP caucus, D. Idevkhten, ordered Khurelsukh to apologize to President Enkhbayar. And the head of the Government Chancellery, Su. Batbold, said that Khurelsukh's statement did "not present the position of the government" and demanded from that Khurelsukh apologize.

The content analysis revealed that 85.6 percent of the information did not present the opinion of a third party, while 14.4 percent did.

According to information published in “Century News” newspaper (July 31 and August 5, 2007) income declarations were filed by 220 government officials, starting with the Mongolian President and including heads of aimag Representative Councils. Nobody declared they had co-founded, or invested in, bought or owned shares of media outlets.

The dispute described above demonstrates how important it is to have transparency in media ownership so as not to mislead the public, and again stresses the importance of guaranteeing editorial independence.



## **4. State secret information**

No journalists have been accused in disclosure of state secret information during the last year.

In 2007, Globe International carried out a comparative study on secrecy laws and access of government information in order to revise the Law on State Secrecy. A new draft of the law was submitted for consideration to the Central Intelligence Agency (CIA) and the Ministry of Justice and Interior (MJI). Globe International's proposal was welcomed by the CIA, and the agency is working on the revision of secrecy-related laws. In addition, a working group was formed in the Parliament. In the reporting period, there were no cases registered of journalists punished for disclosure of state secrets.

Our research team made a request to obtain 15 types of information from 13 government agencies. Of the 15 documents, 12 were of the open-to-the-public category and three were classified secrets. The research team was able to obtain just four documents: three that were open to the public and a secret document that had been declassified.

Government agencies refused to provide nine documents on the basis that six were state secrets, one on the basis that it was an organizational secret and one because it had not been previously accessed by citizens. One document was denied for no particular reason. The team was also unable to obtain two other documents: one that was not on the website as instructed by the government and another one because the fee to access it was too high.

The research team requested from government agencies information that did not contradict with the principles of the Constitution of Mongolia, the Universal Human Rights Declaration and Article 19 of the International Covenant on Civil and Political Rights. But the study results revealed that in Mongolia ordinary citizens' right to access information is highly limited. State secrecy legislation unnecessarily keeps under secrecy sealed information that is vital to the public interest and of their concern. The team observed that even ordinary types of information that should be open to the public were kept out of people's reach.

The right to information is not equal for all, and secrecy laws are not consistent with modern development trends and contradict the principles of democracy and human rights. Therefore, there is a need for rapid change.

Globe International backs up this conclusion with the following case studies.

From October 17–31, 2007, 10 daily newspapers (“Ardiin Erkh”, “Century News”, “Century Post”, “Mongolian News”, “Niigmiin Toli”, “Daily News”, “Onoodor”, “Onoodriin Mongol”, “Ulaanbaatar Times”, “Unen”) published information about the Mongol Bank (Central Bank) scandal.

On October 16, 2007, the Parliamentary Standing Committee on Economics was discussing the 2006 Mongol Bank financial report and the results of the work of the oversight working group (head: D. Gankhuyag; members: J. Batkhuyag, M. Zorigt, Ch.Radnaa) that had conducted the bank’s audit. The scandal began when, during the meeting, Member of Parliament B. Batbayar made a statement about a large amount of money that had gone from Mongol Bank.

This scandal attracted our attention because it involved provisions of laws involving state secrecy (the Law on State Secrets and the Law about the List of State Secrets). For instance, the aforementioned working group distributed its report to members of the Standing Committee with the seal “Secret”. The working group obtained copies of the documents necessary for their audit from the secrecy office of Mongol Bank. Mongol Bank management assumed that the Parliamentary working group report would be a secret document. As the bank’s legal department head G. Erdenebayar stated: “Documents related to currency reserves and money supply are state secrets.” The Law about the List of State Secrets, provision 1.4 says: “Draft projects of contracts and agreements, information, documents, artifacts, objects and activities in the preparation stage of thereof, of the Mongolian Government and the Mongol Bank with foreign countries and international organizations” shall be deemed state secrets.

Despite a warning by D. Gankhuyag that matters of state secrecy were about to be disclosed, Batbayar unveiled the report that was scheduled to be discussed behind closed doors. Mongol Bank representatives requested that the report be discussed confidentially because of its relation to state secrets, but members of the Standing Committee voted 10:3 in favor of an open debate. Most astonishing is the fact that the results of the full text of the audit by the working group appeared in the newspaper “Century Post” (October 18, 2007) under the title “The debt of the gold–mining company was paid from state funds”.

This demonstrates the government organizations keep the public information as secret via secrecy legislation.



## 5. First hunger strike in the media sector

The process of transformation of state-owned broadcasting into public organizations faces enormous obstacles. The transformation of the collective group of radio and TV started in January 2005 when the general director of the newly founded Mongolian National Public Radio and Television (MNPRTV) was appointed. Disagreement about the group with the new management became increasingly heated, and on June 14, 2007, it turned developed into a sit-in. The group that initially called itself the Temporary Committee, and later the Collective Committee, claimed that when appointing 15 members of the National Council of MNPRTV, six were appointed and approved by the Parliament through pressure from political parties without prior selection criteria. In addition, the National Council when appointing deputy directors and heads of departments for radio and TV did not follow the approved rules for selection, and thus violated the law. The National Council ignored the decisions of three levels of courts by pressuring, discriminating against and dismissing tens of employees. This led six representatives of the Collective Committee to announce a hunger strike starting at 11am on July 5, 2007. They demanded the resignation of the “illegal” National Council and criticized the workings of the Standing Committee on State Structure of the Parliament.



The hunger strike started at 4pm on July 6. It lasted for three days and, with involvement from Globe International in the negotiation process, ended when the MNPRTV National Council agreed to implement an eight-point set of demands. (See the brief chronicles of the hunger strike in the Appendix.)





## **6. Conclusion, what should we do?**

Mongolia has some positive laws which protect media freedom. However, in reality, rights of media and journalists are often violated. Because of such violations, journalists cannot tell the truth and are thus detrimental to the public interest.

Censorship is banned by law in Mongolia. However, direct and indirect censorship still exist. Demand on journalists to serve the government should not be tolerated, and government control over media does conform to the nature, standards and principles of democracy.

It is common for elected politicians, authorities and public officials to use criminal defamatory legislation as censorship. The public's legitimate right to be informed does not take precedence over defamation cases in Mongolian courts, so it is difficult to get fair trials in Mongolia.

Authorities use their power to prevent media criticism and neutralize true information. They do this in order to hide their wrong doings and thus deny the public interest their right to know about their activities.

The Mongolian public as well as journalists do not have the right to access information and official documents, which detracts from the democratic principle of transparency and openness. This shows how difficult it is for investigative reporters to find and prove information sources and facts that are hidden.

When media ownership is not transparent, it does not promote pluralism in the society. Instead, it confuses the public and allows for the dissemination of one-sided information and makes the public unable to confront the opinions of unknown media owners. The Mongolian public is becoming unaware of who is telling the truth and is starting to lose their trust in journalists, which is not conducive to social justice.

Being pressured to reveal information sources harms not only informants, but the entire responsibility of the media before the public. Without whistle-blowers, journalists are unable to control the powers. If journalists lose the values of investigative journalism, society will never be healthy.

Any types of attacks, assaults or threats which result because of attempts to tell the truth are serious crimes against journalists. It is regrettable that the Mongolian police and courts do not fulfill their duties to protect Freedom of Media.

### ***WHAT SHOULD BE DONE IN THE FUTURE?***

Media freedom does not come easily. We have to fight to obtain it.

First, it is important to reveal all rights violations against media and journalists, document it and inform it to the public. Only in close cooperation with civil society, the public and the media, can we overcome these attacks.

Second, journalists should be aware of when their rights are being violated. By hiding violations they make the situation worse. Journalists should understand that they will be able to decrease the chance of future abuses by disclosing the facts of violations and raising awareness to them.



## Appendix.

### Brief chronicles of the hunger strike by MNPRTV employees

#### July 5, 2007

1pm – Collective Council members began preparations for the hunger strike.



2pm – Names of the hunger strikers became known.

3pm – Official letters announcing the hunger strike were sent to related organizations.

4pm – Hunger strikers underwent medical examinations.

#### July 6.

11am–4pm – Medical test.

4pm – Hunger strike started. "We want justice" was the logo of six hunger strikers (four men and two women).

6pm – Hunger strikers put together a ger (Mongolian tent) to stay in. Because of heavy rain, the felt walls and floor of the ger became soaking wet.



- 6.30pm – Immediately after commencement of the hunger strike, Globe International president Kh. Naranjargal arrived with a journalist and explained to the hunger strikers that this type of protest was considered internationally a violent form of action and suggested they engage in a peaceful protest. The trade union of the Collective Council strongly stated that they would not give up. Naranjargal expressed concern over their refusal to end the strike and gave the hunger strikers recommendations from international organizations on the health risks of hunger striking and what they should be aware of.
- 9.40pm – Members of working group of the National Council, Kh. Chilaajav, L. Bold and O. Erdene-Ulzii, came to meet the hunger strikers.
- 11.40pm – Globe International suggested that the hunger strikers choose a different form of protest.
- 12.10am – National Council members left.

**July 7.**

- 3pm – Reporters from UBS, NTV, MM and TV-5 arrived and took footage of the hunger strike.
- 4pm – Deputy Speaker of the Parliament D. Idevkhten met with the hunger strikers. When he asked why they choose such a dangerous protest to their health and lives, the head of control council, G. Badamsambuu, replied that it was because no legal system had been created to ensure independent oversight, collective participation and civil control. Members of the Collective Council presented to the Deputy Speaker a statement requesting a speedy debate on the conclusions of the working group of the Standing Committee on State Structure to properly reflect the issue of the Control Council in the law and amendments to the law to improve collective participation.



Representatives from the Mongolian Federation of Trade Unions and Ito Ko Chi (a representative of the Trade Unions of International Employees in Tokyo) arrived and exchanged information. They explained about the dangers of hunger strikes and recommended they stop their action.

- 5pm – Head of Radio Purevdash, Munkhbaatar and O. Narangerel met with the hunger strikers.
- 6pm – Members of the National Council, L. Tumurbaatar and G. Tserenpurev, met with the hunger strikers and talked about stopping the strike.
- 6pm – Head of the MNPR TV B. Naranbaatar came along with members of the National Council, but the hunger strikers refused to meet with him.
- 8pm – Globe International president Kh. Naranjargal met with the hunger strikers and informed them that information about the hunger strike by Mongolian journalists was sent to the international free speech network IFEX.





- 8.30pm – Representatives of the Free Union of Senior Citizens, the Citizens' Justice Court and victims of the SAPU company handed over to the hunger strikers letters of support.
- 10.30pm – Former head of Mongolian radio and TV Myagmar met with the hunger strikers and suggested they choose a more humane form of protest.

**July 8.**

Munkhoo, G. Badamsambuu, Ganbaatar and Kh. Naranjargal participated in an NTV live program and spoke about the condition of the hunger strikers, the reasons for their protest and possibilities of other forms of protest.

- 5–6.30pm – Munkhoo, Baigal, Altantsetseg and Kh. Naranjargal participated in the TV–5 program "Policy". In order to present balanced views, members of the National Council were invited, but no one showed up.
- 6pm – The health of the hunger strikers worsened, and doctors warned that three people risked complications of chronic diseases.



- 6.30pm – Members of the National Council, J. Zanaa and L. Damdinsuren, met with the hunger strikers and asked them to stop the strike.
- 9.40pm – Kh. Naranjargal arrived and asked about the condition of the hunger strikers. Members of the Collective Council condemned the festivities by MNPRTV scheduled for the next day.
- 9.45pm – Four young men from the movement "Khokh Mongol" came and expressed their support, saying that they would join the hunger strikers if needed.
- 9.50pm – President of Mongolian Trade Unions, S. Ganbaatar, came and said that the Collective Council was weak and therefore suggested that they cooperate with the Trade Unions of Employees.
- 11.30pm – On the request of members of the working group of the National Council to meet with members of the Collective Council, Badamsambuu, Munkhoo and Ganbaatar agreed to meet with them.
- 11.50pm – Kh. Naranjargal told the hunger strikers that after consulting with members of the Collective Council, a decision was reached to call a meeting

of MNPRTV employees to inform them of the situation, and they agreed to stop the hunger strike the next day.

- 11.55pm – Four members who left for negotiations returned. Members of the National Council, O. Erdene-Olzii and L. Bold, had already left after waiting for them. The negotiations had no results.

### **July 9.**

- 10am – Employees of MNPRTV held a meeting in support of their colleagues. Kh. Naranjargal and Mongolian Trade Unions president S. Ganbaatar participated. The two organizations and the Collective Council met with MNPRTV employees, exchanged views and called for an immediate end to the hunger strike, and submitted the demands of the hunger strikers to respective authorities.



- 11am – MNPRTV employees held a five-minute warning strike and surrounded the ger containing the hunger strikers in an expression of solidarity. The ceremonial meeting of the MNPRTV was postponed.



- 11.10 – Writers headed by O. Mend-Ooyo visited the hunger strikers and handed them their statement.
- 12.25pm – Head of the Confederation of Mongolian Journalists, D. Sarangerel, came along with presidium members. Member of the Parliament D. Dondog suggested they stop the strike.



- 1pm – MP D. Dondog and D. Sarangerel went to meet with Parliament Speaker D. Lundeejantsan.
- 1pm – Representatives of the Collective Council, G. Badamsambuu, D. Narantsetseg and M. Battumur, Globe International president Kh. Naranjargal, President of Mongolian Trade Unions S. Ganbaatar, head of the National Council of the MNPRTV Kh. Chilaajav, members of the Council R. Burmaa, J. Zanaa, G. Tseveenpurev and L. Bold discussed ways to reach consensus in order to stop the hunger strike. Naranjargal said that it was 30 degrees outside and people's health was worsening. Negotiations went on until 8pm and reached consensus when the National Council agreed to fulfill eight demands of the hunger strikers. The strike officially ended at 9pm on July 9, 2007.

Below are listed articles and news reports published in the nine daily newspapers of Mongolia about the hunger strike.

