



Open Society Forum



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MEDIA FREEDOM

MONGOLIA REPORT, 2008



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We express our sincere thanks and highest appreciation to our donors for supporting the publication of this report.

Introduction

We are pleased to present our 2008 Media Freedom Report. Taking the opportunity to express our thanks to the Open Society Forum (OSF) of Mongolia, the Media Network Program of the Open Society Institute (OSI), IFEX and the US Embassy in Ulaanbaatar for making this report possible.

Freedom of expression, and particularly freedom of the media, is essential to a democratic society. A free and independent press is not a gift to the people from politicians and authorities. A free and independent media is a fundamental human right for people living in a democratic society. The government's duty to its citizens is measured by how it creates and maintains necessary political, economic and legal environment to support a free press. Journalists and the media do not serve the government and authorities; they serve the public, especially acting as a public watchdog of how governmental power 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 rights of the profession of journalism continue to occur. When the 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 interest. Even though it is prohibited by law, censorship exists in open or hidden forms in Mongolia. Restraints that are placed on media outlets, and on the work of journalists, are intolerable actions, 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, which in turn creates doubt about the independence of the judiciary. Those in power use the authority of their official position to suppress the truth and fair criticism and to cover up their wrongdoing.

Mongolian journalists are still often unable to obtain information from government agencies, officials or employees, nor access government documentation. This is in violation of the democratic principles of governmental openness and transparency, and of citizen 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 supply 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; the provision of partisan information to the public creates societal distortions and confusion. As a result, it is very difficult for the Mongolian public to discern who is telling the truth, and much confidence is thereby lost in the media and in journalists.

Journalists experience a range of pressures, with interrogation in an attempt to force them to disclose the identity of their sources, which in turn places their sources of information under threat. As a result, the media cannot fulfil its role as a government watchdog. Society will never function effectively if the value of investigative journalism is undermined.

Any attack on a journalist, up to and including threats to their lives and property, because of their pursuit of the truth, should be considered a serious criminal offence. Unfortunately, the Mongolian police and the courts are unable to carry out their duty, to determine the truth, or to impose proper punishment.

This report highlights how Mongolian journalists currently exercise their professional rights and what enabling environments exist for them to fulfil their duties to the public in a fair and responsible manner.

This report comprises three chapters:

Chapter One contains information on national legislation that guarantees or restricts freedom of expression.

Chapter Two includes information on the events of July 1, 2008, when government action taken to handle the riot that erupted after the public protest against 2008 Parliamentary elections showed how media freedom is still fragile in this country. It was particularly unfortunate for the Mongolian media because six journalists were injured and several media outlets were seriously fire-damaged, while the government imposed direct control over all public broadcasting.

Chapter Three includes examples of violation of the rights of the media and of journalists as reported by monitoring. In 2008, a total of 59 cases of violation of the rights of the media and journalists were registered.

ONE. MEDIA LEGAL FRAMEWORK

Freedom of expression is protected by 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 rights, dignity and reputation of persons and to ensure national defence, security and public order, information not subject to disclosure is classified and protected by law.

Mongolia, as a member of the United Nations, has recognized the Universal Declaration of Human Rights, and is 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 Article 19 of the above documents and other international law.

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

The guarantee of freedom of expression applies with particular force to the media. It is the mass media that makes the exercise of freedom of expression a reality. In order to protect the right to freedom of expression, it is imperative that the media is permitted to be completely independent of 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.

The Mongolian Parliament passed the Media Freedom Law on August 28, 1998. This prohibits the adoption of any law restricting the freedom of the media and its outlets, and bans censorship. Article 4 prohibits state ownership of the mass media. The law also obliges media outlets to take responsibility for their publications and programs.

Establishment of a public broadcaster has been the most important step taken by the Mongolian authorities towards consolidating media freedom in recent years. The Mongolian Parliament passed the Public Radio and Television Law on January 27, 2005, after seven years of delay. Parliament Resolution 103 on implementation of the Media Freedom Law was issued on August 28, 1998, and provided for the dissolution of state-owned broadcasters and their restructure into a public service.

The Public Radio and Television Law 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.

The 2002 Criminal Law states that it is a crime to interrupt any lawful professional activity. However, in Mongolia, there are numerous laws restricting freedom of expression and information.

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 Law was passed in 1995 and was last amended on January 2, 2004. Article 5 sets out five areas of secrecy: national security; defence; economics, science and technology; secret operations; and counter-intelligence. It also sets out procedures for the execution of criminals charged with capital offences. The Law on the List of Secret Information protects 59 types of information (including 19 national security-related items, 14 on defence, 5 on economics, science and technology, and 15 on intelligence). Of this information, 69.5% is protected for 40-60 years or indefinitely.

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 category. Amendments to the List of State Secrets Law on April 23, 2004 provide for an indefinite period of protection for “all information and documents related to terrorism.” It says that it is punishable by up to eight years’ imprisonment to disclose state secrets if this is especially harmful (Criminal Law provision 87.2).

The Law on the Privacy of Organizations (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, which lists a number of areas which need not be kept confidential. It is prohibited to withhold information if the information pertains to activities, products, services, techniques and technologies which affect public health or the environment, or relates to poisonous or radioactive substances held by an organization which may cause public harm or may harm the environment should its storage and protection procedures be breached. The information may also not be protected if it concerns a crime, or if it should be publicly revealed in accordance with law. Article 164 of the Criminal Law makes it a crime, punishable by a fine or gaol for three to six months, if financial secrets or secrets on activities are unlawfully obtained or disclosed. If the harm is judged substantial, the punishment is up to three years’ imprisonment.

Reputations are protected in both the civil and criminal laws of Mongolia. In Criminal Law effective since September 1, 2002, provisions 110 and 111 define the crimes of dissemination of libel and insult, and provide for gaol for one to six months.

The above provisions of the Criminal Law were interpreted on October 29, 2007 by the Supreme Court of Mongolia, with explanations of terms such as reputation and honour, insult and disgrace, libel, public, and previous criminal convictions.

Globe International does not accept the above interpretations as being sufficiently advanced. In a review of the interpretation, our legal advice was that the definitions of the terms of reputation and honour do not conform to international standards, and that the definition of insult and libel as a crime of form is not suitable. Specifically, the statement that ‘libel is a crime of form’ means that if allegedly libellous information is found to be false, the case should be considered a crime.

The Civil Law was amended in 2002 and protects a citizen’s name, honour, and personal and business reputation.

Below are a few examples by which journalists can be criminally charged for alleged breaches of the Criminal Law:

Under the Criminal Law, a fine and arrest for up to three months may be imposed ‘if privacy is disclosed’ (136.1), ‘if obscenity is advertised’ (123), ‘if a citizen’s correspondence is 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 where there is a call for war, a criminal imprisonment of one to three months shall be imposed. If the offence was committed using the mass media or by state officials, criminal imprisonment for two to five years shall be imposed. Insulting state officials and public inspectors of social order may also result in imprisonment for a period of 1-3 months (231).

This law defines state officials as judges, prosecutors, inspectors, detectives, other police, customs and tax officers, and other state inspectors with special legal powers.

Mongolia still lacks important laws guaranteeing freedom of information and protection of confidential sources, and lacks proper complete legislation on media ownership, media concentration and general broadcasting.

TWO. JULY 1: TEST OF DEMOCRACY

During the democratic transition, the Mongolian people have fought for their rights and freedoms through demonstrations, strikes and hunger strikes. But July 1, 2008 was a day which has gone down in history of Mongolia as a day that tested the authenticity of democracy and guarantees of human rights. Mongolia has been credited as one of Asia’s successful democracies for the last 18 years, guaranteeing very crucial human rights under its Constitution as well as ratifying most international human rights treaties and conventions.

Mongolia’s 2008 general parliamentary elections were held on June 29, 2008, when 12 political parties and one coalition contested 76 seats. On the next day, June 30, 2008, the Mongolian People’s Revolutionary Party (MPRP) convened a press conference, at which they claimed to have won the election with an absolute majority. However, the General Election Commission had not yet officially announced the final results. The opposition parties protested, claiming that the elections had not been fair, and demanded a re-count of the vote in some electoral districts.

On July 1, 2008, the Civic Coalition held a public demonstration in front of the MPRP headquarters building. After several hours, the demonstrators attacked the building. The rioters started to vandalize and loot the MPRP building. The police were unable to control the situation, and the MPRP building was entirely burnt out. The rioters then attacked the City Cultural Palace complex near the MPRP building; B Block was completely burnt out and C and G Blocks also suffered arson damage.

On July 1 at 23.00 the President of Mongolia proclaimed a State of Emergency.

During the events, five people died and over 800 arrested. The courts heard 50 cases against 261 individuals, including 17 youths, 13 of whom were found guilty by the end of 2008.

What Happened to the Media?

Globe International highlights the following in this report.

Case 1: The Presidential Decree on the State of Emergency banned the operation of all broadcasting channels except the National Broadcaster for four days.

Prohibition on the operation of audio enhancement equipment, with temporary confiscation where necessary; stopping of the activity of all broadcast media except for Mongolian National Public Radio and Television until the end of the state of emergency

Provision No 6, Declaration of the State of Emergency.
Presidential Decree No 194,

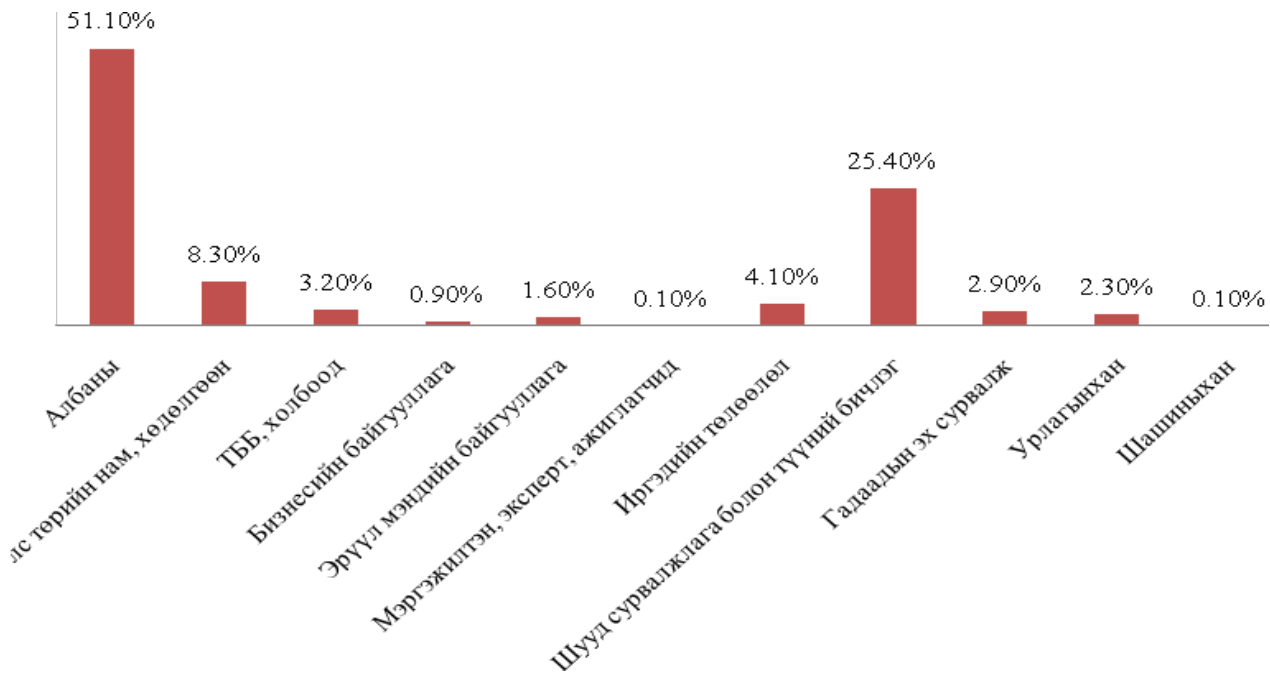
Case 2: The government of Mongolia invoked strong censorship and government officials censored news content of Mongolian National Public Television during the State of Emergency.

Globe International conducted media monitoring of the July 1 event and there is some evidence that the government controlled the national broadcaster during the State of Emergency.

Mongolian National Public Television, July 5, 2008, 00:11-00:21, 618 second

...State of Emergency terminated. During the past period, Mongolian National Public Television operated under the Law on the State of Emergency and direct leadership of the Emergency National Security Staff, and we disseminated news based on their information...

During the time of government control, 51.1% of sources appearing on the public television service of the national broadcaster were official (i.e. government representatives), while only 4.1% of airtime was occupied by citizens and 3.2% by NGO representatives. Independent sources such as experts, professionals and observers received only 0.1% of the airtime.



- 51.1% Official/government
- 25.4% Media/archival materials of July 1 live coverage
- 8.3% Political parties and civic movements
- 4.1% Citizens
- 3.2% NGOs/federations
- 2.9% Foreign
- 2.3% Art workers
- 1.6% Health workers
- 0.9% Business representatives
- 0.1% Experts/observers/professionals
- 0.1% Religious representatives

The following chart shows how the MNB reported on different reasons for the riot. On July 1, it reported polls that 25.3% believed the cause was MPRP electoral fraud; this fell to 0.3% during the time of government control, but increased to 15.6% after the control period ended.

The second most numerous belief was that “it was because of provocation by Elbegdorj, DP leader (14.4%)” which was then reported under government control to be 0.2%, but slightly increased when government control ended.

Reasons	July 1	During State of Emergency	After State of Emergency
Result of election fraud by the MPRP	25,3	0,3	15,6
Provocation/incitement of Elbegdorj, Democratic Party leader	14,4	0,2	1,8
Contradiction between election results and public anticipation	9,0	7,1	10,4
It was MPRP's own organized action to burn its building etc	7,1	0,0	12,7
Bad work of Election Committee	5,6	1,0	0,0
Accumulated social problems	3,9	0,7	3,4
H. Enkhbayar (President) guilty	3,1	0,4	0,1
S. Bayar (Prime Minister) guilty	1,7	0,3	1,7

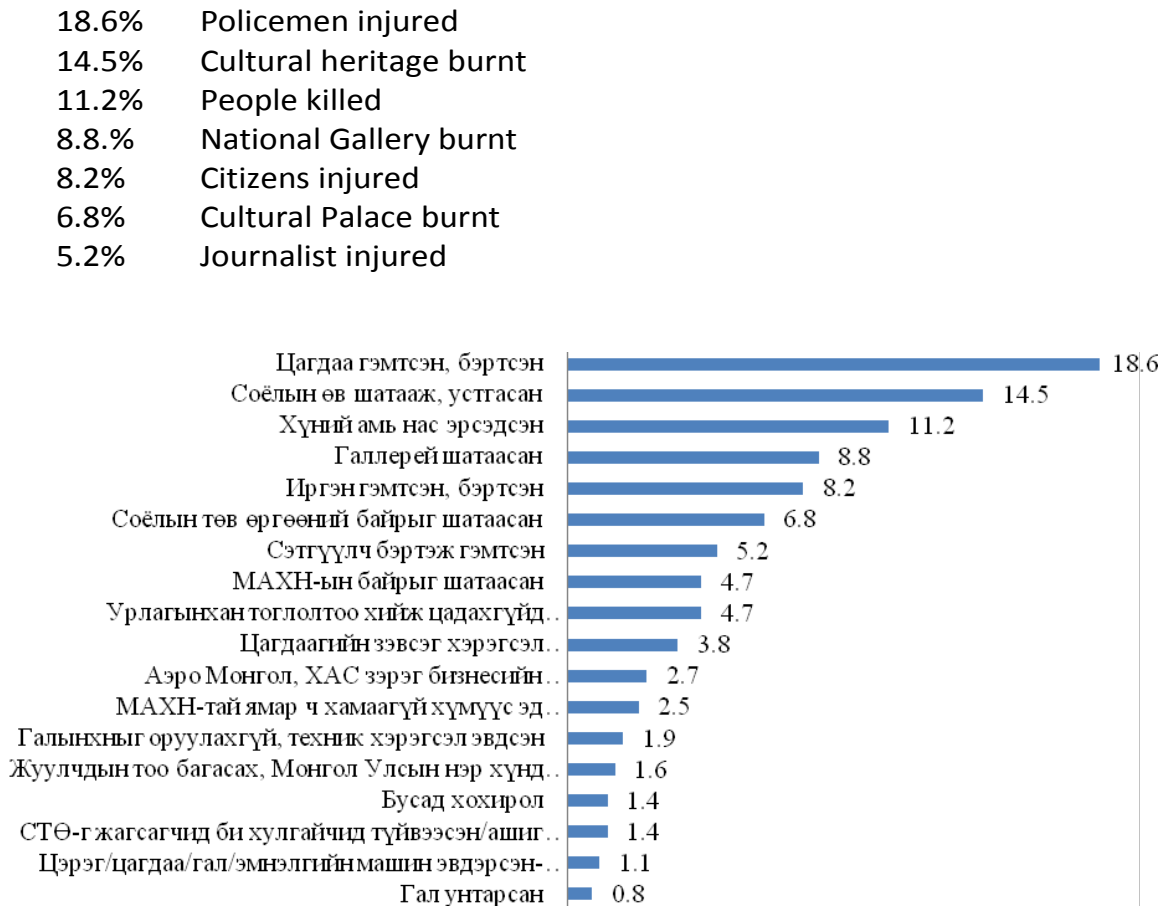
The following chart shows how much decrease was for different reasons for the riot. On July 1, it reported polls that 5.5% believed the cause was organised by the Civil Movement leaders O.Marnai and G.Batzandan; this went up to 22.6% during the time of government control, but decreased to 8.1 % after the control period ended.

The second most numerous belief was that “it was organised by the Civil Coalition and Republican Party (2.7%)” on July 1, but under government control it reached 18.4%, but it decreased to 4.1% when government control ended.

	July 1	During State of Emergency	After State of Emergency
It was organised by O.Marnai and G.Batzandan	5,5	22,6	8,1
It was organised by the Civil Coalition and Republican Party	2,7	18,4	4,1
O.Magnai and B.Jargalsaikhan (Leader of Republican Party) lost their control/their provocation	0,2	13,4	0,2
Mongolian Democratic movement is guilty	0,3	7,1	0,8
B.Jargalsaikhan guilty	0,4	5,7	0,5
Eagle television is encouraging/inciting	0	6,3	0,1
D.Enkhbat, B.Lhagvajav and J. Batzandan organised it	0,6	6,2	0

On July 1, the MNB allocated 0.2% of the time to reason that O.Magnai and B.Jargalsaikhan (Leader of Republican Party) lost their control/their provocation, during the control it increased to 13.4%, but when it ended, the figure turned down to 0.2%

The graphic below shows how much airtime the MNB allocated to topics related to July 1 consequences during the state of emergency:



Less than five percent was allocated to each piece of information on the burning of the MPRP building, art workers unable to work, policemen lacking weapons and tools etc, impact on business, fire extinguishing equipment damaged, decrease in tourist numbers, vandalism such as stealing, damage to vehicles of the police, army and ambulance service etc.

Case 3: Six journalists were assaulted. The most seriously injured was B. Byamba-Ochir Byambasuren, a photo reporter for the daily Onoodor (Today) newspaper. He was admitted to the Trauma Orthopaedic Center in Ulaanbaatar, where he underwent surgery on an epidural haematoma and to remove bone fragments in his brain. He underwent a second surgical operation in Seoul, for which Globe International raised funds. We are very grateful to the IFJ,

Norwegian Journalists Union, Danish Journalists Union and Canadian Journalists for Free Expression for their donations

“I received a serious head injury on July 1 when covering the post-election demonstration in Ulaanbaatar. The head wound was classed as severe. I was admitted to the Orthopaedic Trauma Centre in Ulaanbaatar, where I underwent immediate epidural haematoma surgery to remove bone fragments lodged in my brain. Thanks to urgent surgery by doctors and nurses at the Trauma Center, my life was saved. Then I needed a second stage treatment - further surgery available only abroad.



I underwent a second surgical operation at the Anam Hospital, Seoul Medical University in the Republic of Korea. This was made possible thanks to the help and assistance

From kind-hearted people who contributed towards the cost of my urgent medical treatment and surgical expenses.

My special sincere thanks go to director B. Nandintushig and colleagues at the Mongol News, where I work, who helped me with all kinds of sincere assistances in mind and material form. Also I would like to extend my heartfelt thanks to the following organizations and individuals who stretched out a helping hand for my recovery:

Kh. Naranjargal (Globe International NGO President), Kh. Battulga (Minister of Roads, Transport, Construction and Urban Planning and Chairman of the Mongolian Democratic Association), Dr J. Oyuntugs (Head of the Department of National Trauma), G. Shiilegdamba (former Minister of Environment and Tourism) and T. Ghandi (former journalist and Minister of Social Welfare and Labour).

I also offer special gratitude to Reporters without Borders, the International Journalists' Organization, the International Federation of Journalists, the Norwegian Union of Journalists, the Danish Union of Journalists and the Canadian Free Expression Network.

I also thank Mr Zorigt (Mongol News Co representative in the Republic of Korea), E. Nomin (MN-25 Channel Television journalist) and her family, P. Jargal (Eagle Television reporter) and my friend J. Zoljargal (living in the Republic of Korea) and his family.

I will never forget your boundless kindness and help that restored my health.

B. Byamba-Ochir, photo reporter, Onoodor daily newspaper

Case 4: The General Police Authority and the General Investigation Authority demanded from television channels video materials filmed at the event and used episodes as irrefutable evidence against people, frequently showing them with commentary on newscasts of government-controlled public television.

“!It was my first ‘hot’ experience on reporting conflict - it was the same for all other television reporters. We had live coverage on NTV. It was risky for journalists, and especially hard for our cameramen.



No ordinary citizens and no policemen seemed aware of that journalists were working to show the truth. When we interviewed demonstrators, they wanted to beat us: maybe they thought we were in cahoots with the police. The police did not want us shoot them beating people, so they tried to beat us with their sticks.

When the State of Emergency was declared, I had to take off my identifying tie and jacket, and our cameraman took off his jacket with an NTV logo. We hid our camera and shot whenever possible. Young people with clubs threatened to smash our camera, but I am very proud that I delivered the real situation to the public as a witness of the historic moment. I am happy that I was able to carry out my duty as a member of the responsible profession called journalism.

It is sad that many people do not properly understand our profession. It would be better if people could be more aware that journalists want to tell and show the objective truth of any event so they have more ability to report fully.

I think we have to educate the public on the role and duties of journalists. Indeed, we are here to serve the public.

The police took our filmed records. I very much regret that they used them against the people. We were not working for that aim. Our profession and our work are not for any other purpose than to tell the truth.”

B. Boldbaatar, reporter, NTV

Case 5: During the July 1 event, several television cameras and other mobile equipment of the Mongolian National Public Television were damaged.

Case 6: The offices of the daily Ogloonii Sonin newspaper and the weeklies Humuus and Humuusiin Amidral were entirely burned down after the burning of B Block of the City Cultural Palace complex.

Case 7: Seven FM radio stations were damaged during the riot; two of them (FM 107.5 and FM 102.5) were unable to operate. Operation of the biggest national portal (Olloo.mn) was interrupted for 48 hours.

Case 8: During the extraordinary parliamentary session, some MPs accused EBC (Eagle Television) of encouraging the riot; there was some opinion expressed on a claimed need for a law prohibiting foreign ownership of the media.



“Journalists of EBS (Eagle Broadcasting Company) tried our best to provide a balanced coverage when the two big political parties (MPRP and DP) announced their claimed results of the 2008 parliamentary elections on June 30, 2008. We had five filing groups and three live links. We reported from the General Election Committee and interviewed observers, and our news anchors in the studio contacted the audience by telephones. Mongolians had never before experienced such rioting, so the public, police and the media did

not know how to react to protect themselves. There was no journalistic experience or tradition of how to cover such a conflict situation in such hard circumstances. There was no way media outlets could protect their journalists.

I reported on the events from the morning of July 1, 2008, when demonstrators moved from Sukhbaatar Square to the MPRP building. I wondered later how I found the courage to work and report. At the time I was just thinking how to present the most objective picture of the event.

I worked for the news, and EBC leaders enabled us to work without censorship. At EBS, we showed the whole process of the July 1 event. I am proud of my professionalism as journalist and of my employer.

We have kept all the records of our coverage. The police demanded that we make copies of our filming and I was also once called on by police as a witness. They wanted me to give evidence on the situation and what instructions were given by demonstration organizers.

It is very regretful that the Presidential Decree on the State of Emergency banned all television broadcasts except for that of Mongolian National Public Television. Unfortunately, during the

State of Emergency, MNPT news was fully censored, so the news was very one-sided and biased. I was doing a 'stand-up' in front of a burning car, which MNPT News showed and claimed that EBC was inciting the riot. They claimed that I said, "citizens are protesting the election results." I actually said they "protested the preliminary results of the elections." I am truly frustrated and I think they violated my professional rights.

It is evidence that censorship in Mongolia is still real. My conclusion is there is no true media freedom in Mongolia."

Ts. Soyolmaa, reporter, EBC

Case 9: The government did not allow journalists from other television channels to enter Parliament House to report on the extraordinary parliamentary session, or government meetings relating to issues raised by the extraordinary national situation.

Globe International in a statement on July 2, 2008, said, "Globe International deeply regrets that the authorities intentionally abused media freedom by using provisions of the 1995

Law on the State of Emergency." Globe International demanded that the President and Parliament urgently reverse this decision and allow other broadcasters to operate immediately.

"The provision of the Law on the State of Emergency is very old and overlaps the 1998 Law on Media Freedom and 2005 Law on the Public Radio and Television. It is shameful that the government determined to censor news from Mongolian National Radio and Television," said Globe International President



Mrs Naranjargal in an interview published by Odriin Sonin (Daily News) on July 2 and by EBC television news channel on July 3, 2008.

Government action to resolve the problems of the July 1 event showed how fragile was media freedom in Mongolia.

THREE. VIOLATIONS THE PROFESSIONAL RIGHTS OF 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 by which Mongolian authorities create confusion in society.

The private sector and the public also try to disrupt news gathering and reporting of public events. In addition, increased court and police pressures illustrate that it is becoming increasingly difficult for the development of an independent media.

Globe International has been conducting free expression violation monitoring since October 2005, with support from OSF and the Network Media Program of OSI. A total of 59 cases against media outlets and journalists were registered in the reporting period. This was an increase of 22 compared to 2007.

Some journalists do not want Globe International to register their case, being highly self-censored and afraid of further possible attacks and assaults; 12 journalists whose cases were registered in 2008 did not want to report on the facts.

Various violations of journalist rights (attacks, pressure to reveal sources etc) are evidence that Mongolian journalists work in difficult conditions and complicated situations.

Cases registered by GI:

Assaults	6
Threats	19
Denial of information	13
Insulting journalists in public	7
Civil defamation	2
Damage to professional equipment	2
Demand to reveal confidential sources	5
Censorship (publications/programmes banned)	2
Calling to the force institutions	2
Threats to family members	1

In 60% of 2008 cases, authorities violated the journalist's rights. Of seven 2009 registered cases, six were caused by paid publications.

Although censorship is banned and interference with professional activities of journalists is a crime under law, it does not work that way in Mongolia.

On 16 January 2008, a meeting was held at the State Center for Civil Registration in Bayan-Ulgii to discuss printing equipment that had been out of commission for a month. During the meeting, responsibility for the problem was placed on I. Lazat (officer in charge of passport issues) and finance officer B. Saule.

Journalist Khuangan Ainur wrote a two-minute report on the incident and submitted it to the local radio station; however, the bulletin was not broadcast. It transpired that B. Saule had approached the station and falsely told staff there that the laying of responsibility had been revoked.

In taking this action, B. Saule violated Article 139 of Mongolia's Criminal Law, which states: "A person shall not interrupt the lawful and professional activities of a journalist in order to disseminate or not to disseminate any information which affects his/her own or other's interests." "Interrupting the lawful and professional activities of a journalist" includes searching for, collecting and distributing information. B. Saule deliberately interrupted the distribution of information, and thus committed an illegal act.

Globe International protested a decision of the Citizens' Representative Meeting of Bayan-Olgii province, in the far western Kazakh province of Mongolia, for issuing a non-competence decision that makes the normal operation of public media unstable. At the Citizens' Representative

Meeting's meeting in Bayan-Olgii Aimag on December 24, 2008, a decision was made in regard to public radio and television ownership. This decision infringed the Law on Press Freedom and the Law on Public Radio and Television. Therefore, Globe International addressed a demand to Kh. Bayan, Head of the Citizens' Representative Meeting in Bayan-Olgii Aimag, and to S. Haval, Governor of the Aimag, to invalidate Non-Competence Decision 128 of 2008 and requesting them not to meddle in local radio and television activities. The Globe International leader was interviewed on Mongolian National Public Television. The action stopped

In Mongolia, it is normal for journalists to be ordered to reveal their information source. The first question asked of those lodging complaints with advocates and judges is: "Who gave you this information?" In most cases, journalists are threatened with arrest, imprisonment, court cases and police action. They also receive threats to their families and their lives. There have been many incidents in which journalists were pressured to reveal their sources. Journalists are generally afraid to report these violations, so only five cases have been registered.

Journalists routinely receive threats to their personal safety. We are deeply concerned that the intolerance towards journalists appears to have increased; 19 registered cases are threats that were received by journalists in different ways, mostly by telephone. The majority of journalists do not want to draw attention to the situation, fearing possible future assaults.

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 on freedom of expression." In many countries, public officials use criminal and civil defamation legislation to censor critics or resolve disputes.

During and after the 2008 parliamentary elections, seven alerts were received from the local monitors, all concerning election coverage. Complaints were issued by the political parties or candidates against paid publications and programs. For example, Khetiin Medee (Khentii aimag local newspaper) published an article headed "MPRP members were drunk" in its November 2008 issue No 7. A civil defamation case against Editor-in-Chief B. Battsetseg was brought by plaintiffs G. Baatar and J. Bataa, members of the MPRP who worked in the local election district of Khentii center.

Globe International conducted a study of civil defamation cases heard by the courts in 2007. In total, 33 defamation cases were reviewed by the courts, two in the provinces.

38.4% of all defamation cases were initiated by MPs and government officials, 6% by singers and the rest by ordinary citizens.

Only 9.6% of the cases were won by journalists and media outlets; 69.7% were lost; 12.1% were settled; and 9.1% were withdrawn by the plaintiffs.

Nine of the defamatory articles were published by daily newspapers.

Topics that concerned the media were:

9.1% - public concern

27.3% - critical material about wrong-doings of government agencies

63.6% - private lives of high-ranking people

The maximum demand for damage was 100 million MNT; the most awarded was 5 million MNT (about US\$4,600) to Mr Munkhbat Jigjid, winner of a gold medal at the 1998 Mexico Olympic Games in freestyle wrestling; he has also won several national and world championships. He is also noted as the father of Hakuho (his Mongolian name is Davaajargal), a well-known champion of Japanese Sumo wrestling.

A tabloid newspaper (Terguun Sonin) published a story headlined Champion Muyo (his short name) Is Under Home Detention in its October 2007 issue. The story claimed that the champion was seriously ill and confined to home. Mr J. Munkbat demanded 8 million MNT to recover his good name, honour and reputation.

The Chingeltei district court considered the matter on November 28, 2007, and found that the newspaper had defamed his good name, honour and reputation under Articles 21.2, 497, 511.1, 57.1, 119.2 and 120.3 of the Civil Law of Mongolia, fining the newspaper 5 million MNT.

On 27 March, 2008, the newspaper appealed the case in the Ulaanbaatar city court, but the decision of the district court was confirmed.

Globe International won a criminal defamation case brought against Ovorkhangai Sonin Editor-in-Chief B.Javzansuren (Ovorkhangai aimag local newspaper) in the Supreme Court on June 12, 2008.

B.Javzansuren had written and published an article headlined Head of Aimag Education Office and City Governor Took the Lunch Program in the April 2007 issue (No 11) of her newspaper. In it, she claimed that the local leaders had won tenders to implement the government's Secondary School Lunch Program, and that other professional companies had lost the tender. She wrote that high-placed local officials were using their power in their own interests. Later, the article was published by a capital city daily newspaper (Niigmiin Toli) under the headline Ovorkhangai High Officials Changed Their Cars With Money Earned from the Lunch Program."

On January 20, 2008, Arvaikheer Town Mayor T. Gonchigdorj brought a civil defamation case against Javzansuren. After a few days, Aimag Education Head T. Monkhjargal launched a criminal defamation case.

The Arvaikheer Court found Javzansuren guilty on March 20, 2008. Globe International lawyer G.Davaakhuu appealed the decision and lost, and then appealed to the Supreme Court.



"Media freedom in the provinces is under danger. I had three civil and one criminal cases because of journalistic materials. Globe International met all court-related costs and protected me from imprisonment. I was so encouraged. It is difficult to criticize wrong-doing or investigate government corruption in the provinces. Indeed, people of our small town knew about the wrong actions, but I was found guilty just because I publicized it. Now I am in Ulaanbaatar and I am employed by a daily newspaper. I express my deepest gratitude to Globe International for protecting me and fighting for my professional rights.

**B.Javzansuren, reporter,
daily newspaper Zuuny Medee.**

The duty of government officials, public employees and authorities to the Mongolian public is the complete fulfilment of the provisions of the Constitution of Mongolia and the international treaties to which Mongolia is party.

Journalists act on behalf of the public to disseminate information. Unfortunately, denial of information by public officials in Mongolia is very common; 13 cases were registered in 2008.

In a democratic society in which the government serves the people and respects citizen rights, information about the 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 right to seek, receive and disseminate information.