



GLOBE INTERNATIONAL
NGO

MEDIA FREEDOM REPORT 2011

MEDIA FREEDOM REPORT *2011*

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Title

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PREFACE

It is our pleasure presenting the Media Freedom Report 2011. Taking this opportunity, we would like to express our deepest gratitude to OSF Media Network Program, OSF, the UNESCO, Beijing Office and the USA Embassy in Ulaanbaatar for making this report available.

In 2011, according to the Press Institute survey, 4415 media professionals work in 469 media outlets throughout the country. 1989 of those are involved in journalism and other creative areas. 33 percent of all the media operate in the provinces. In Mongolia, there are nine newspapers in foreign languages and two newspapers in Kazakh, national minority language. In 2011, Press Institute has registered 30 active websites and 26 newspapers have their own websites. In total, 24 newspapers are available at www.sonin.mn. Audience is able to listen to five radios and watch 13 television digitally.

The purpose of the present report is to give an overall picture of Mongolian media freedom situation, how Mongolian journalists exercise their professional rights and what are the opportunities to be responsible and fair in fulfilling their duties before the public.

In 2011, according to Reporters without Borders Mongolia remains a country with notable media freedom problems and it is in the 100th place. In accordance with the Freedom House, Mongolia is a country with partial media freedom.

In 2011, the Mongolian Parliament has taken a significant action towards guaranteeing the freedom of expression by an enactment of the Law on Information Transparency and Right to Information. The biggest changes in the media sector brought by an implementation of the two regulations adopted in February 2011 by the Communications Regulatory Committee: General Conditions and Requirements on Digital Content and General Conditions and Requirements on Television and Radio Services.

2011 was significant that the UN Human Rights Committee discussed the Mongolian Government report on the ICCPR in March 2011. The Human Rights Committee members delivered the Concluding Observations that suggested: *"The State party should guarantee the full compliance of the draft law on freedom of information with the Covenant and enact it. It should consider decriminalizing defamation and ensure that measures are taken to protect journalists from threats and attacks. It should also ensure that all allegations of such threats and attacks are immediately and thoroughly investigated, and that the perpetrators are prosecuted."*

It was notable that the Forum-Asia, regional human rights organization visited Mongolia for the Fact-finding Mission on freedom of expression in September 2011. The preliminary report of the Forum Asia noted: "Journalists interviewed told us that they have been subjected to external

pressures, physical attacks, threats and harassment to themselves, their media organizations and even their families by government officials, politicians, businessmen and others for reporting news. Such treatment of journalists breeds a climate of fear and journalists become reluctant to report news that is critical of those in power or disapproved by official bodies. This self-censorship is even more dangerous to the independence of media because it is not visible. In some of the provinces, certain specific topics considered to be sensitive by the provincial government, such as globalization, were also off the limits from public discussion. We are also gravely concerned by the lack of action on the part of the law enforcement agencies with regard to that these attacks on journalists. Most, if not all, cases that we have been informed about have ended without proper investigation and the perpetrators were never identified, perpetuating impunity against journalists and witnesses”.

As Globe International registered, in 2011 the journalists faced attempts to intervene their professional works, different types of pressures, threats, censorship in distribution, demand to reveal their information sources and use of criminal defamation law by politicians, high officials, businesspersons and religious group.

Today, when the world celebrates the 2012 World Press Freedom Day, we emphasize that detention of D.Chuluunbaatar, Chief-in-Editor of Ulaanbaatar Times, daily was politically motivated and unacceptable action of the authorities and it influenced the decrease of the media freedom index of Mongolia.

In the report, we included two chapters. The first describes the media legal environment, namely guarantees and restrictions of the freedom of expression and the second chapter highlights media freedom situation in 2011.

ONE. MEDIA LEGAL ENVIRONMENT

1.1. Guarantees of Freedom of Expression

Constitution of Mongolia

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:

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

16.17 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.

International Law

Mongolia is a member of the United Nations and accepted the Universal Declaration of Human Rights. In 1974, Mongolia became a party to the International Covenant on Civil and Political Rights (ICCPR). As such, Mongolia is legally bound to protect freedom of expression guaranteed by Article 19 of the two above mentioned documents in accordance with international law.

In accordance with Article 10 of the Constitution, the above mentioned documents are effective as domestic laws.

The UN Human Rights Committee adopted the General Comment No 34 on Article 19 by its session 102 held on 11-29 July 2011. Full text in Mongolian is available at www.globeinter.org.mn

National Law

Article 3 of the Law on Advertisement passed on May 30, 2002 contains the definition of "informing tools" and the Supreme Court of Mongolia bases on this definition for interpreting the law provisions related to the media.

Provision 3.1.5

“Informing tools mean networks of television, radio and communication, computer network, specific programs, print media and other tools”

Law on Advertisement

Freedom of Information

The Mongolian Parliament passed the Law on Information Transparency and Right to Information on June 16, 2011 and the law fully came into force from December 1, 2011. The Law is an important action in practical implementation of freedom of expression and the media freedom and strengthens good and transparent governance. The Law obliges the public institutions making the information on activities, budget and finance, human resources and procurement open to the public, and it guarantees the right of the citizens to access the public information.

Unfortunately, the law promotion and implementation is not sufficient. The Government of Mongolia has not yet adopted the procedure on methodology of determination of service fee and conditions to give discounts and release from the fees. The journalists also do not use this law efficiently.

Media Freedom and Journalism Professional Activities

The Parliament of Mongolia enacted the Law on Media Freedom on August 28, 1998. Article 2 of the Law prohibits the Parliament to pass any laws restricting media freedom. Article 3 of the Law states: “The Government shall not censor the content of the public information and media outlets shall take responsibility for its publications and programs”. Article 4 of the Law prohibits the Government to own its own mass media.

It was an important step towards guaranteeing media freedom, when the Parliament passed the Law on the Public Radio and Television in 2005. The Law became effective from July 1, 2005 and the Mongolian National Broadcaster (MNB) was registered by the Ministry of Justice and Home Affairs on February 8, 2006.

Over two years have passed since the Law on the Amendments to the Media Freedom Law first initiated. Two new versions of the Law drafted by the President and by the Government have been submitted to the Parliament. On 19, January 2012, the Parliament of Mongolia discussed a passage of the draft law on Media Freedom and 74.9 percent of the MPs voted in favor, but no discussions carried out by now.

Article 139 recognises the interruption to the journalistic activities as a crime.

The present laws do not protect the journalistic confidential sources. The draft of the President includes the source protection as duty of the media outlets and journalists while the Government draft says the journalists “have the right to protect the sources of the news and information in other cases indicated in this law”

Media and Election

On December 15, 2011, the new version of the Law on the Parliamentary Election was passed. Article 35 of the Law has new regulations on the election campaigning on media. Particularly:

35.4. A political party or coalition participating at election shall keep a newspaper or publication that exposes its platform within twenty printer's sheets, one leaflet, poster, and candidate's resume within ten printer's sheets, and other campaign materials within ten printer's sheets respectively.

35.5. An independent candidate shall keep two newspapers or publications that expose his/her platform within two printer's sheets each, one leaflet, poster, and candidate resume within one printer's sheet, and other campaign materials within one printer's sheet respectively.

35.11. Radios and televisions other than the public ones may broadcast a commercial campaign program but total timing of such a program shall not be in excess of two hours per day.

35.12. In the event radios and televisions other than public ones have more than one channel, they shall broadcast a campaign program on their primary airwave channel only.

35.13. Both the General Election Commission and Communications Regulatory Commission shall approve procedures for broadcasting the electoral campaign set forth in Article 35.11 hereof and monitor enforcement thereof.

The Article 9.4 of this law obliges that “9.4. A media outlet or its official is obligated to disseminate accurate and objective information on election activities. In the case of violation, a fine equal to the lowest¹ monthly salary increased as 15-20 times. Comparing to the previous 2008 law, the amount of the fine has been increased as 3.5 times.

The General Election Committee has approved a Procedure on observing and reporting on the Parliamentary election by its resolution No 25 from April 6, 2012.

Provision 1 of article 6 titled Reporting on election process by reporters of media states “A media reporter shall strictly follow journalists' ethics, and to be independent, honest and upholding rule of law and reporting shall be evidence based and accurate”.

¹ Lowest salary level is 140.400 MNT from April 5, 2011

The provision 6.2. pledges that the election committees shall provide the following opportunities for reporters:

- 6.2.1. To obtain information on the process of elections preparations;
- 6.2.2. To have access to organizational work and performance of committees;
- 6.2.3. To obtain information and data in relation to polling arrangements;
- 6.2.4. To obtain information concerning sealed mobile ballot boxes and to interview;
- 6.2.5. To obtain information and reporting, regarding polling process, ballot counting and airing the result, etc;

Provision 6.3 of the Procedure obliges the following duties to the reporter:

- 6.3.1. To respect and comply with Constitution and election legislation of Mongolia;
- 6.3.2. Non-interference into the election committee activities;
- 6.3.3. To respect the voting privacy of voters and not to create any hurdles;
- 6.3.4. No hurdles for vote counting and sum-up process;
- 6.3.5. No clothing either supporting or opposing a political party, coalition, or candidate and not to carry any promotional materials on the polling day;
- 6.3.6. To observe polling station regulations and treat election committee members and voters properly;
- 6.3.7. To distribute accurate information on election committees and election activities efficiently.

In accordance with the provision 6.4 "A reporter shall have a valid business ID card with his/her photo and clothing with a media logo and equipment"

A foreign media reporter shall make a request for observation of the election of State Great Hural to the General Election Commission EC through the Ministry of Foreign Relations. (provision 6.5 of the procedure)

The provision 7.1 of the Procedure states: An observer or reporter observing and reporting an election process shall be forbidden to do the following:

- 7.1.1. To sign an electoral roll on behalf of a voter;
- 7.1.2. To be with a voter in a voting booth;
- 7.1.3. To cast vote on behalf of voter neither at a voter's request nor on his/her own initiative;
- 7.1.4. To ask and talk with a voter regarding his/her voting;

7.1.5. Neither wear or use clothing or items intended to support or oppose any political party, coalition, or candidate nor carry any promotion materials in this respect in observing and reporting an election process;

7.1.6. To use any illegal means such as use of force for voters and election committee members, intimidation, and distribution of false information to the public.

7.1.7. To demand any additional rights not set forth in the law on the election of the State Great Hural of Mongolia and in this procedure.

Article 14 of the Law on General Organization of Election passed on January 12, 2006 coordinates the media Council that shall work during the election. In accordance with Article 14.2 "The Media Council shall consist of equal representatives of professional institute of press and media, NGO and political party, coalition" and "Media Council shall control and monitor the balanced and equal condition of election advertisement on media of political party, coalition, candidate; as well as shall review complains and letters regarding above matter from political party, coalition, candidate and bring in to the Committee"(14.3)

Protection of the Journalistic Confidential Sources

Mongolia does not have a legislation protecting the journalisitic confindential sources. The Professional Code of Conduct of the Mongolian journalists adopted by the 15 Congress held on December 10, 2011 of the Confederation of Mongolian Journalsist protects the confidential sources as follows, but it is not practical.

Fifteen.

The journalist shall keep the information sources as secret.

Professional Code of Conduct of the Mongolian Journalists

1.2. Freedom of Expression Restrictions

Access to Information

Even though, the Law on Information Transparency and Right to Access Information is available, other secrecy legislation has no changes. The state secrecy is protected by the Law on the State Secrecy and the Law on the List of State Secrets. The Law on the State Secrecy passed in 1995 and lastly amended 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 to the Law on 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 Code 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 can not 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 Code 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 Codes of Mongolia. The provisions 21, 27, 497, 511 of the 2002 Civil Law protect the name, honor, reputation and business reputation of the person. Criminal Code effective since September 1, 2002, in provisions 110 and 111, defines a crime of dissemination of libel and insult defaming the persons.

The provisions of the Criminal Code 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.

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 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 the crime of form" means that if the libelous information found to be false, the case will be considered a crime.

The UN Human Rights Committee discussed the report of the Mongolian Government on the ICCPR by its meeting No 101 held on March 14-21, 2011 in New York, USA. The UN Human Rights Committee produced the following Concluding Observations on implementation of the recommendation No 25 concerning Article 19.

Recommendation No 25.

The Committee is concerned about information received on frequent threats and attacks on journalists and/or their family members, and about the delays that have elapsed since the commencement of the discussion on the draft law on freedom of information in 2001. The Committee also regrets the application of the legislation on defamation in the case of journalists prosecuted after having criticized public servants, or lawyers who contested judges' decisions (art. 19 of the Covenant).

The State party should guarantee the full compliance of the draft law on freedom of information with the Covenant and enact it. It should consider decriminalizing defamation and ensure that measures are taken to protect journalists from threats and attacks. It should also ensure that all allegations of such threats and attacks are immediately and thoroughly investigated, and that the perpetrators are prosecuted.

However, the Mongolian government has taken no actions to decriminalize defamation.

Based on the UN HRC recommendations, Globe International sent the letter to the Working Group established to work on the amendment to the Criminal Code through Mr. G.Bayasgalan, State Secretary of the Ministry of Justice and Home Affairs on May 11, 2011.

The Forum-Asia, Asian Forum for Human Rights and Development organized the Fact-finding Mission on freedom of expression from August 28 to September 2, 2011 in Mongolia. The FFM team of the Forum Asia convened the press conference on September 2, 2011 introducing their preliminary report and the team concerned over decriminalization of defamation by stating:

We are concerned by the rising number of defamation suits against journalist, especially criminal defamation, with 5 cases in 2010 in comparison with none in 2009.

That the lawsuits were brought by public officials for criminal defamation is particularly alarming. Public officials are accountable to the people in a democracy and must be subject to public scrutiny and criticism.



They should not be allowed to resort to defamation lawsuits in response to criticism regarding their work in their official capacity. We also note with concern that the damages amount awarded in civil defamation suits have been rising.

The media play a vital role in a democracy as a watchdog of the government. The threat of criminal defamation has a particularly chilling effect on freedom of expression. Cases

of defamation may be resolved in many alternative ways, including a right of reply, correction notice, public apology and civil suit. No one should face the prospect of going to jail or having to pay large damages for reporting facts or expressing their opinion. Defamation should be decriminalized in line with international human rights standards. In addition, a defence of public interest should be introduced to protect journalists who are simply reporting news in a fair and balanced manner. (Full preliminary report is in the Annex)

The Office of the President in cooperation with the Open Society Forum organized the discussion on the topic "Protection of honor and reputation" on October 16, 2011 in the Citizens' Hall in connection with the drafting of new version of the Law on Media Freedom. Representatives of the lawyers, judges, advocates, law professors, researches, media and

NGOs attended the meeting. It was agreed to repeal the criminal defamation and make it as a part of the Civil Code and the provisions should be more detailed and clear. The Mongolian media paid a great attention to this issue and Odriin Sonin, daily newspaper started discussions that have supported by other daily newspapers: Ogloonii Sonin, Zuuny Medee and Mongolyn Medee. The newspapers said they would support the politicians who contributed to decriminalizing defamation.

Content Regulation

Many Mongolian laws contain the content restrictions. For example, the following contents are prohibited:

- caused negative influence on children's behavior and morality as specified in section 1.6, article 13 of the Law on the Protection of Children's right;
- expressed those specified in section 5, article 6 of the Law on the Protection of Children's right;
- contained erotic type of contents as specified in sections 5.1, 5.2, article 5, and 7.2.3, article 7 of the Law on the Fighting against pornography, and article 123 of the Criminal Code, and expressed pornography;
- advertised alcohols as specified in section 9.2, article 9 of the Law on the Fighting against alcohol drinking;
- advertised and expressed those specified in section 11.4, article 11 of the Law on the Prevention from Crime;
- conducted advertisement on the subject which could violate national solidarity as specified in article 86 of the Criminal Code;
- advertised terrorism as specified in article 178 of the Criminal Code;
- encouraged or enticed public disorder as specified in article 179 of the Criminal Code;
- advertised religious cruel doctrine as specified in article 144 of the Criminal Code;
- expressed those specified in section 13.1.2, article 13 of the Law on the Control over the Circulation of drugs and substances with influence on mind.

The Mongolian Parliament enacted the Law on Fighting against Human Trafficking on January 19, 2012, which becomes effective from the date of adoption. The Law prohibits media outlets to distribute advertisements and information related to human trafficking and in the case of violation 5 million MNT shall be imposed as fine.

We understand these restrictions are made in order to protect the public interests, but we criticize it can create the conditions to over-use these restrictions because of absence of the narrow definitions and terminologies rea too general.

Below are some Criminal Code`s provisions that could be used for punishment of the journalists.

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 cruel religious doctrine 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).

Provision 231.1 states: "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". State officials, as defined in this law, are judges, prosecutors, inspectors, detectives, police officers, customs and tax officers, and other state inspectors who have special powers by law. This is a chilling provision for the journalists who criticized the public officials.

No media content regulator existed in Mongolia before. The Communications Regulatory Committee (CRC) has power of the broadcast media content regulator since March 1, 2011 when the CRC started implementing two regulations: General Conditions and Requirements on Digital Content and General Conditions and Regulations on Television and Radio Service adopted by the CRC meeting on February 17, 2011. There is no content regulator for the print media.

The above two regulations defines the content requirements and lists the above mentioned laws. For radio and television, it is imposed to respect the pubic interest (5.1) and at least 50 percent of the weekly programming shall be produced locally in Mongolia, or produced by the Mongolians and legal entities registered in Mongolia (5.4).

The CRC has been conducting the monitoring the contents and contents of the programs using chats and messages, and the limits of air time for advertisements on 14 television channels, and informing the public in the monitoring results through its web site starting from March 1, 2011. The CRC has delivered the notices to 12 television channels violted the regulation².

The CRC has established the permanent monitoring system that has power to terminate and cancel the license in the cases of violations. Globe International is concerned that it would turn into censorship.

² <http://www.crc.gov.mn/>

General Conditions and Requirements for Digital Content became effective from March 1, 2011 as well. The document provides regulations of service providers, content aggregators, content suppliers, web service providers and web hosting companies. In accordance with the above mentioned regulation, 15 web sites that have more than 3,000 visitors a day during one month, have been registered by the CRC.

The Joint Declaration of December 21, 2005 by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression states as follows: "No one should be required to register with or obtain permission from any public body to operate an Internet service provider, website, blog or other online information dissemination system, including Internet broadcasting. This does not apply to registration with a domain name authority for purely technical reasons or rules of general application which apply without distinction to any kind of commercial operation".

If the registered web sites offer the user-generated content and comments, the followings must be introduced:

- It is obligatory to use filtering soft ware of CRC: www.happywebs.mn;
- Provide permission to the users to generate the content by reminding the service must be consistent to the Mongolian legislation;
- In the case, if the customer who considers that content generated by other users is illegal, or bring the negative impact to the public ethics, has the right to express opinion and possibility to remove such content depending on the numbers of a such opinions shall be provided;
- IP address of the customers shall be publicly visible under the user-generated content.

In the case of violations of the above mentioned requirements, the CRC has the right to demand, timely commission the tasks, to inform the related controlling organizations in carrying the administrative measures, to notify to terminate or cancel the licenses, or cancel the licenses, or impose the required penalties in accordance with the law. The CRC shall establish permanent monitoring system and conduct it jointly with other controlling organizations which have the legal rights; such as Authority for Fair Competition and Customer, Authority of Intellectual Property, Coordination Council of Crime Prevention, Police, Courts, Intelligence Authority, General Authority of Professional Inspection etc.

The CRC has adopted the new Procedure on Accepting, Reviewing and Solving Complaints and Disputes by its resolution No 06 in 2011.

Other Regulations

Media Ownership and Concentration

Non-transparency of media ownership and media concentration encourages the editorial censorship thus restricting the media freedom and media pluralism and it takes the negative impact on journalistic information quality. There is world tendency in the media legal environment to provide ownership transparency and restriction of media concentration. It is good that Mongolia has taken the first steps towards it.

The National Security Concept of Mongolia adopted in 2010 first included the provision to make the media ownership transparent.

Article 4 titled "Ownership Transparency of the General Conditions and Requirements for Television and Radio Service" obliges television and radio stations to inform the CRC on the percentage of the stakeholders of the investors, names and contacts of the license holders, structure of the legal entity citizenship of the managers every year. It states that number of the television channels owned by one country shall not exceed 30 percent of the total number of foreign channels (9.6).

At the initial stage, the CRC made information on ownership and investment public. The list includes 17 television and 22 radio stations, and 15 multi-channel distributors (cable, IPTV and mobile TV) based in Ulaanbaatar, the capital³.

In accordance with provision 3.9 stating: "License holder shall not transfer its right, duty, main activities, management and programming to others", 100 percent American-owned Eagle TV returned to the Bodi Group, the license holder. It was the biggest change occurred in the media sector in 2011.

Media concentration is ongoing process in Mongolia. The Law on Prohibiting Unfair Competition should apply to the media, but there are no cases of using this law. Although, the CRC new regulation said that "If it is defined as dominating in the market, the procedures related to the competition regulation in telecommunication sector shall be applied." (9.8)

Advertising

The Law on Advertisement prohibits the illegal advertisement. For the first time, the CRC imposed the restrictions on the advertising on radio and television by the General conditions and requirements on television and radio service:

³ http://www.crc.gov.mn/index.php?option=com_content&view=article&id=254:2012-02-20-01-16-05&catid=74:2011-05-16-03-23-40&Itemid=222

- Advertising shall not exceed 15 minutes in every hour (6.4)
- The beginning and end of the advertisements shall be clear to the viewers (6.5)

Broadcasting

Mongolia has no separate broadcast law, but Law on Telecommunications and Law on Spectrum regulate some technical aspects and licences issues.

In 2011, Information, Communication Technology and Post Authority (ICTPA) has drafted the Law on Broadcast and has sent to the relevant organizations to get the comments.

Internet

The Mongolian Government considers that development of new information technology, digitalization of the traditional media and growth of new media require the need of Internet environment legislation. One of the first steps is the above-mentioned General Conditions and Requirements on Digital Content. In the framework of new technology regulation, ICTPA and Central Intelligence Agency have formed the Working groups on drafting the laws on cyber security, data protection and information security

On December 15, 2011, the Parliament of Mongolia enacted the Law on Digital Signature with purpose to regulate the relations of transfer the data and documents except state secret information into digital forms and transmit it. The Law will be effective from January 1, 2013.

1.3. Media Self-regulation

Mongolian media and its professional organizations have taken no actions towards establishment of media self-regulation system, even though the wide discussions raised over the past few years.

The CRC General Conditions and Requirements on Television and Radio obliges: "Television, radio and cable channels shall have its joint code of professional ethics and shall establish the Ethics Committee" and the CRC shall provide the support for the permanent activities.

Both of the new versions on the Amendment to the Media Freedom Law drafted by the President and Government have the provisions to establish Media Council. The Presidential draft states: "Media Council shall be established by the general meeting of journalists" while the Government version states: "The President shall appoint the members of Media Council who are nominated by the civil society representative."

TWO. MEDIA FREEDOM IN 2011

The International Fact-finding Mission of the Asian Forum for Human Rights and Development was one of the important activities of the year 2011. The Fact-finding Mission team noted: "Journalists interviewed told us that they have been subjected to external pressures, physical attacks, threats and harassment to themselves, their media organizations and even their families by government officials, politicians, businessmen and others for reporting news. Such treatment of journalists breeds a climate of fear and journalists become reluctant to report news that is critical of those in power or disapproved by official bodies. This self-censorship is even more dangerous to the independence of media because it is not visible. We are also gravely concerned by the lack of action on the part of the law enforcement agencies with regard to that these attacks on journalists. Most, if not all, cases that we have been informed about have ended without proper investigation and the perpetrators were never identified, perpetuating impunity against journalists and witnesses."

Globe International has been monitoring violations of journalistic professional rights since October 2005, with financial support from the Open Society Foundations Media Network Program and the Open Society Forum. Up to May 1, 2012, we have registered 220 violations of free expression in total.

Violations of journalist rights

Types of violation	2006	2007	2008	2009	2010	2011	Total
Assaults	3	3	6	-	-	1	13
Threats/pressure/insults, including to family members	16	7	23	13	10	8	77
Denial of information / violation to obtain and disseminate information	8	10	13	2	-	7	40
Damage/confiscation of equipment	3	3	2		2	2	12

Court, police and other pressure and force by institutions/civil defamation	2	8	5	3	5	3	26
Demands to reveal information source	3	1	5	1	6	3	19
Censorship of publications/bans or attempts to ban program broadcast	2	1	3	1	2	3	12
Criminal defamation/detention/arrest	4	4	2	0	5	6	21
Total	41	37	59	20	30	33	220

From May 2011 to May 2012, Globe International has registered 33 violations affecting professional work involving 18 journalists and media outlets. If any journalism right is violated, it will affect other rights. 64 per cent of those who approached us are working at daily newspapers, 26 per cent are working for television stations and 10 per cent of those working for websites. Most of the violations (63.2%) were registered in Ulaanbaatar, the other 36.8 per cent were from the provinces. In compare with last year (last year approach of provincial journalists was 13.3 per cent), provincial journalists are getting aware of the Globe International activities as a result of several trainings for provincial journalists.

68.5 five per cent of those who violated journalist rights were authorities or public officials.

Mongolian journalists are highly self-censoring and fear further possible reprisals, attacks and assaults. Bearing this in mind, we were not able to include all cases in this report.

Globe International highlights the following violations of journalists` professional rights.

Pressure from courts, police and law enforcement bodies

Dolgor Chuluunbaatar, Editor-in-Chief of daily newspaper Ulaanbaatar Times

D.Chuluunbaatar Dolgor, Editor-in-Chief of the daily newspaper Ulaanbaatar Times, was arrested on 24 March 2011 and put in Detention Center No 461. On April 7, 2011, he was indicted for allegedly "illegal privatization and serious damage of public property." In 2008 the newspaper was privatized by the Capital City Privatization Commission and D. Chuluunbaatar was head of the management privatization team. If found guilty he faces 15 years imprisonment under the relevant article of the Criminal Code of Mongolia.

Since the investigation by the Capital City Investigation Office, D. Chuluunbaatar has consistently denied the allegations and claims innocence. When D.Chuuluunbaatar accepted the position of editor-in-chief in 2008, the newspaper had no office because the building had been partly destroyed; the newspaper has debts of millions of MNT to the Taxation and Social Insurance Authorities and the staff have remained unpaid. He has made strenuous efforts to improve the newspaper's financial situation.

The newspaper office was in the building of the former State printing house, near Ulaanbaatar's central square just left to the Government House. The Mongolian media has reported that the building was privatized by Nambar Enkhbayar, the former Prime Minister, Parliamentary Speaker and President, 2000-2009. He lost his position in the 2009 Presidential Elections.

During the investigations he has been frequently asked who was behind him. Once, investigators met him without the presence of his lawyer, when they told him, "It is better for you to say who is behind you. You are getting old and your health is deteriorating. If you refuse to tell us who is behind you, it will be detrimental for you."

Such police action is in violation of provisions of the Constitution of Mongolia, the Law on Criminal Procedure and the Law on Arrest and Detention of Suspects and Defendants, under which no one can be compelled to testify against him/herself, and which bans unlawful action and psychological pressure.

D. Chuluunbaatar was in poor health. On April 2, 2011, staff at Shagdarsuren, a leading private hospital, concluded that he had serious health problems and needed urgent treatment to safeguard his life. On April 27, 2011, this prognosis was confirmed by a doctor at the Detention Center hospital, where he had been a patient for a week.

On May 9, 2011, Globe International convened a press conference calling for his immediate bail. In an International Statement, we stated that his arrest was unjustified and expressed

concerns about violation of his human rights. We consider this is in fact a deliberate and politically motivated attack on the free media. Globe International has sent letters to the Capital City Prosecutor; Mr. Dorligjav, General Prosecutor of Mongolia; Mr. Byambadorj, Chairman of the National Human Rights Commission; and Mr. Kh.Temuujin, MP and Chairman of the Human Rights Sub-Committee of the Mongolian Parliament, asking for an



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NEWSPAPER EDITOR DOLGOR CHULUUNBAATAR FREED ON BAIL

PUBLISHED ON THURSDAY 28 JULY 2011.



Reporters Without Borders is relieved to learn that **Dolgor Chuluunbaatar**, the editor of the daily *Ulaanbaatar Times*, was released conditionally on health grounds on 22 July. He is now in hospital receiving treatment for a serious eye infection.

He had been held since 24 March on a charge of illegally privatizing the newspaper. No date has so far been set for the trial, at which he will face the possibility of a 15-year jail sentence.

investigation into these human rights violations and support for his release on bail.

The arrest of D.Chuluunbaatar has been one of the hot topics of the Mongolian media reports since the Globe International press conference. The Confederation of Mongolian Journalists joined the action and they also convened the press conference and issued a Statement on May 17, 2011 for his immediate release on bail.

GI alert was distributed through the IFEX network. The international free expression organizations such as the IFJ, IPI, RSF and AJA supported our campaign by issuing media releases. AJA (Asian Journalist Association) approached to the Embassy of Mongolia in Korea, delivering the protest letter to the President of Mongolia.

Finally, D.Chuluunbaatar has been taken on a bail on July 22, 2011.

R.Otgonjargal, a police major of the State Investigation Authority

A criminal defamation case has launched against TV9 channel and its crew of the documentary that disclosed the corruption facts. TV9 Channel aired a corruption story about the illegal privatization of "Ulaanbaatar" printing's building located in the city center in a documentary titled "Detective-2" on December 17, 2011. The documentary based on evident sources and analyzed the facts of corruption related to high officials. The main purpose of the documentary is to call on and urge the police into the investigation of the corruption facts and corrupted officials as the television crew explains.

On December 22, 2011, R.Otgonjargal, a police major of the State Investigation Authority who is currently in charge of investigation of the privatization facts filed a criminal defamation claim at the Sukhbaatar District Police Department.

TV9 documentary creative team involving, senior producer D.Turmunkh, reporter N.Binderya, director N.Bayarsaikhan and presenter L.Erdenebaatar as well as Ts.Enkbat, TV9 director were questioned by the police as witnesses. The main questions of the police were "What is the purpose of the documentary? Who is behind you?" Police vaguely responded and threatened with a possible forcible detention of the witnesses.

Mr.O.Baasankhuu, an attorney protests the police action and stresses that demand of the police to repeal the information sources is a violation of the main principles of press freedom. He assumes "Currently, journalists who gave witness stand are under a threat of becoming a possible criminal suspect basing on their witness testimonies. This act is a serious violation of the Constitutional guarantee of the human rights and it also breaches the Law on Criminal Procedure of Mongolia." He says: "The current case is the perfect and drastic example where there is no protection of journalists and how journalists become a victim of harassment by the ill powers. The action of the police shows how role of the press for the public interest is

undermined as well as the ability of the press to provide accurate and reliable information may be adversely affected”.

Globe International calls the police to stop this arbitrariness and respect for the rights of independent media and the law on Media Freedom, which bans any type of censorship.

VIOLATION ON INFORMATION DISTRIBUTION

B.Jargalsaikhan, leader of the Republican Party

B.Jargalsaikhan, leader of the Republican Party has prevented activities of Mongoliin Medee daily and therefore infringed on the rights of thousands of readers, violated media freedom, violated journalist`s professional rights and the independence of the media outlet.

An interview between journalist B.Davaa and B.Jargalsaikhan titled “I think July 1 riot was committed intentionally” was to be published in the 13 April 2012 edition of the daily newspaper Mongoliin Medee. However, on the night of 12 April, B.Jargalsaikhan and his representatives exerted pressure on the journalist by phone. Moreover, they committed contemptible actions such as entering the newspaper`s premises, checking whether the newspaper edition is printed, having men with cars outside the building controlling those people who are coming for the newspaper, seizing and buying the newspaper`s edition from some postal offices in the morning. (On the night of 12 April, agents of the Independent Authority Against Corruption (IAAC) arrested the former president N.Enkhbayar at his residence. *Because of the current political situation, B.Jargalsaikhan decided not to distribute the interview.*)

Globe International considers B.Jargalsaikhan`s above mentioned actions to not only violate media freedom and the public`s right to information, but they also violate Article 39 in the Criminal Code of Mongolia. It states that the “prevention of a journalist’s professional activities that are consistent with law with the view of dissemination or preventing dissemination of any information which affects the culprit’s or others’ interests shall be punishable...”



Our daily newspaper published on April 13, 2012 an interview between political journalist B.Davaa and the leader of the Republican Party B.Jargalsaikhan. After the interview has been taken, Jargalsaikhan himself edited the interview before publishing. At a time when our newspaper was printing, the former president N.Enkhbayar has been arrested. From that time, almost the whole night Jargalsaikhan was trying to repress our staff in a different ways.

“You predicted the arrest of Enkhbayar, so you have intentionally take my interview by some political party`s order. I will not let your newspaper be published, in case it would be printed, I will not allow you to distribute it, I will buy all of the editions...” he attacks.

Next day morning he seized/bought the newspaper`s editions from two of four postal offices.

After these immoral deeds, we held a press conference to give warning for other media outlets. In addition, we approached the Confederation of Mongolian Journalists (CMJ) and Globe International. The both organizations expressed to protect the rights of journalists and media outlets and issued a joint statement on the case. In connection with the case B.Galaarid, President of CMJ visited our editorial staff, exchanged opinions and expressed to protect us.

International organizations promoting the rights of media and freedom of expression accused the actions of Jargalsaikhan and expressed their protest.

The International Federation of Journalists (IFJ) which represents more than 600,000 journalists in 131 countries expressed its concern over the outrageous actions of B.Jargalsaikhan and issued a media release. "Efforts to repress reporting on matters of public importance in Mongolia are an attack on press freedom and promote a climate of fear," IFJ Asia-Pacific Director Jacqueline Park said. "Any attempt by political figures or parties to interfere in the independence of the media, and unduly influence their reporting, is unacceptable." Moreover, Toronto based global network for free expression IFEX distributed through its network an alert on our case.

IFEX member Pakistan Press Foundation sent a letter to Globe International, believing that these actions are the violations of the rights of thousands of readers, violation of media freedom, journalists' professional rights and the independence of the media outlet.

We demanded B.Jargalsaikhan to ask apologize from our readers, but he did not respond yet. We are planning to send him an official letter urging on compensate damages suffered to our readers and subscribers. In case he would not respond to our demands, we will approach to the law enforcement bodies.

S.Gantogoo, editor-in-chief, Mongoliin Medee daily newspaper

PRESSURE OF PRIVATE COMPANIES

Security staff of Special Mines LLC from Bayankhongor province

On 3 January 2012, female journalist T.Danaasuren from "Khongor" television in Bayankhongor aimag and cameraman J.Tuvshintulga, were assaulted while covering incidents between small local mining entrepreneurs and guards from the "Special Mines" company, following local residents' complaints.

When the television crew entered the premises of the company to obtain clarification on those incidents, the company guards approached them, insulted them using abusive language, gave death threats, and repeatedly stuck their truncheons into the journalist`s face.

The guards then seized their camera and detained the television crew in a cold ger (Mongolian traditional dwelling) for two hours. All images on the camera were deleted. In addition, the camera was destroyed during the fight between the cameraman and the guards.

GI is concerned over this intimidation and sees it as clear violations of media freedom and the public's right to information.

GI believes the media should be able to report independently on events and public interests without censorship.

Further, Article 39 in the Criminal Code of Mongolia, states: "prevention of a journalist's professional activities that are consistent with law with the view of dissemination or preventing dissemination of any information which affects the culprit's or others' interests shall be punishable..." and the Mongolian Constitution guarantees the right to seek and receive information under Article 16.



Province journalists often face difficulties in exercising their professional rights. They are being discriminated by their political opinions. Independent media in the provinces are working under pressure and are getting financial dependent. With a lack of specialized lawyers in the provinces, the media often lose their cases in the courts of first instance. Hereupon, there is lack of professional journalists in the provinces. State owned television have been operating in our aimag under the Citizen's Representatives Khural breaching the law.

Recently, we have broadcasted a critical news citing complaints by local residents about hygiene of aimag's hospital. After the news broadcasting, medical officers of the hospital came to the TV station, assaulted us, demanded phone numbers of citizens approaching us and noted down those numbers to be saved on the phone.

On 3 January 2012, I and our cameraman Tuvshintulga, were assaulted while covering incidents between small local mining entrepreneurs and guards from the "Special Mines" company, following local residents' complaints

We consider Special Mines company's security guards above mentioned actions to not only violate media freedom and the public's right to information, but they also violate Article 39 in the Criminal Code of Mongolia.

We approached aimag's branch council of journalists to protect our rights, unfortunately there is no respond for about four months. There is a lack of professional lawyers for protecting our rights in the province.

T.Danaasuren, journalist, Khongor television

PRESSURE OF RELIGIOUS GROUP

World Mission Society Church of God

On 6 September 2011, female journalist J.Minjin of TV-8 television broadcasted a news item about complaints by former members of "World Mission Society Church of God" and certain sources, concerning "doubtful" preaching by the church.

The journalist broadcasted the news in front of a school located near the church noting: "We do not have the intention of impinging on someone`s right to religion. When we asked members of the church for clarification, they were all scared. However, we are concerned about the troubling issues on whether someone made others suffer moral and financial damages and had a negative influence on them. Therefore, we are broadcasting about it only to raise the issues without any intention of violating others' rights."

After the news, the journalist received many phone calls day and night from Mongolian members of the church. They threatened the journalist saying, "We will kill you. We will curse you" and screamed loudly. Moreover, one member of the church entered the premises of TV-8 several times and made death threats against its staff.

On 27 December 2011, the "World Mission Society Church of God" filed a lawsuit against TV-8 television and journalist Minjin in the Chingeltei District court. In its claim the church accused TV-8 television and journalist Minjin of slandering their reputation and impinging on their right to religion. They also demanded MNT 30 million (approx. US \$22,000) as payment for moral and reputation damages to the church and its members, and asked for a broadcast of a retraction and apology. The claim included signatures of ten Mongolian members of the church and its head Kim UI San.

CIVIL AND CRIMINAL DEFAMATION CASES AGAINST MEDIA

Globe International conducted a survey on the cases on civil and criminal defamation heard by the Mongolian courts in 2010 and 2011 and studied how the authorities used the civil and criminal defamation legislation. Data based on the archives of nine districts of Ulaanbaatar, the capital and information received from 21 aimag districts. In 2010, the courts heard 67 civil and 2 criminal defamation cases. 38 of the civil and none of criminal defamation cases were against media and journalists.

In 2011, the courts heard in total 43 civil and 7 criminal defamation cases. 23 out of total 43 of civil and three out of total seven criminal defamation cases were against media.

The Ulaanbaatar district courts heard 35 civil defamation cases in 2010 and 21 cases in 2011. Two civil cases heard by the Dornod aimag courts. In 2011, all of the 3 criminal defamation cases were heard in Ulaanbaatar.

In 2010, 69.7 percent of the plaintiffs were the authorities, high officials, public officials and 21.2 percent were businesspersons or private companies. In 2011, 22.2 percent were high public officials and 40.7 percent- businesspersons, banks, financial organizations and other private companies.

In 1999-2011, 58.7 percent out of total 533 civil and criminal defamation cases were filed against media and journalists. Amount of fines demanded by the authorities reached 200 million MNT in 2010, the figure dropped to 30 million MNT in 2011, while 900 million MNT demanded by the private companies in 2010. This amount was decreased to 200 million MNT in 2011.

In 2010, 86.5 percent of the total number of the cases journalists lost their cases and the same was 84.6 percent in 2011. The number of the lost cases is not significantly decreased.

Data on the trials of defamation cases

Years	Civil		Criminal	
	Total	Against media	Total	Against media
1999	30		3	
2000	39			
2001	31	11	4	
2002	44	37	2	2
2003	28	18	1	1
2004	40	40	1	1
2005	29	25	1	1
2006	36	31	3	3
2007	33	33	-	-
2008	39	25	5	5
2009	44	17	1	-
2010	67	37	2	-
2011	43	23	7	3
Total	503	297	30	16

More than 20 years have passed since the independent and free media first established in Mongolia. New legal regulations guaranteeing media freedom were set up. Number of media outlets, particularly number of online media has increased and it plays the important role in promotion of pluralism. However, the public' right to know the truth and the journalists' right to tell the truth are often violated. In order to tell the truth, the journalists must be independent. Independence is a journalism value. Unfortunately, the journalists have opportunities to tell without any pressures. The media is not able to be politically and economically independent and it is a main obstacle in distributing the quality information to the citizens.

The UN UNESCO Windhoek Declaration of 1991 declares: "By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals."

In the other hand, Mongolia has no media self-regulation system, the media leaders are not committed to jointly establish it and the journalists lack the common conduct of principles. It leads the professional journalism unrespected and influences the paid journalism to flourish.

If the media and journalists continue serving the interests of the political and business groups by ignoring the professional reputation, they will lose the public`s trust and will be unable to play the role of the public watchdog.

We have to join and deliver our voices to fight for safeguarding our common values and for protecting our interests.

Media freedom is not a gift given by the authorities, it has to be fought.

ANNEXES

The Forum Asia Fact-finding Mission on Freedom of Expression

The Asian Forum for Human Rights and Development conducted an international fact finding mission to Mongolia to examine the state of freedom of expression and freedom of information from 28 August - 2 September, 2011.

The fact finding mission was comprised of two human rights experts, Mr. Yap Swee Seng, Executive Director of FORUM-ASIA and Professor Hee-Kyoung Spiritas Cho, Law Professor of Hongik University of South Korea. During the visit, the mission conducted interviews and meetings with officials of the President's Office, the Ministry of Justice, media outlets, journalists, non-governmental organizations, the National Human Rights Commission of Mongolia in the capital city, Ulaanbaatar, and three provinces, Darkhan-Uul, Orkhon and Bulgan.

The fact finding mission notes the rapid progress made by Mongolia in democratization and promotion and protection of human rights since the end of the communist rule in 1990. The team a press conference on September 2, 2011 at the Mongol News press hall. In the press release the team states as follow:

"We welcome the newly adopted Law on the Information Transparency and Right to Information in June 2011. As a young democracy, however, many challenges remain to be addressed by the government. We would like to highlight in particular the following areas of concern: criminalization of defamation; the absence of the right to protect confidential sources; the absence of public interest defense for journalists; media censorship in different guises; harassment of journalists; lack of access to information; lack of transparency in media ownership; lack of viable financial model for sustainable independent media; and general disregard by public officials of the importance of independent media in a democracy.

We are concerned by the rising number of defamation suits against journalist, especially criminal defamation, with 5 cases in 2010 in comparison with none in 2009.

That the lawsuits were brought by public officials for criminal defamation is particularly alarming. Public officials are accountable to the people in a democracy and must be subject to public scrutiny and criticism. They should not be allowed to resort to defamation lawsuits in response to criticism regarding their work in their official capacity. We also note with concern that the damages amount awarded in civil defamation suits have been raising.

The media play a vital role in a democracy as a watchdog of the government. The threat of criminal defamation has a particularly chilling effect on freedom of expression. Cases of

defamation may be resolved in many alternative ways, including a right of reply, correction notice, public apology and civil suit. No one should face the prospect of going to jail or having to pay large damages for reporting facts or expressing their opinion. Defamation should be decriminalized in line with international human rights standards. In addition, a defense of public interest should be introduced to protect journalists who are simply reporting news in a fair and balanced manner.

Currently, there is no law in Mongolia that recognizes a journalist's general right to protect their confidential source of information. A right exists under the Law on Public Radio and Television but this only covers those who work in public radio and television, which is only a small number of journalists working in Mongolia. Many journalists interviewed told us that the absence of legal right to protect their confidential sources put them in difficult and dangerous position, especially when police and the court pressure them to disclose their source. Protection of confidential sources is vital in a democracy. The public will be reluctant to come forward to blow the whistle on the misconduct by a public official unless they can be assured that there will not be recrimination against them for providing such information. The best way for them to do so is to disclose the information to the media on a confidential basis. Journalists must have the right to receive information on a confidential basis and disclose them to the public when the matter is in public interest. It is also troubling that when journalists publish these news that are critical of the government or report on official wrongdoing, the police, more often than not, investigated the journalists that published the news rather than the serious allegations of misconduct by the public official that was reported in public interest.

Although the Media Freedom Law of 1998 prohibits any control or censor of the content of public information, censorship is widespread and rife in Mongolian media. Journalists interviewed told us that they have been subjected to external pressures, physical attacks, threats and harassment to themselves, their media organizations and even their families by government officials, politicians, businessmen and others for reporting news. Such treatment of journalists breeds a climate of fear and journalists become reluctant to report news that is critical of those in power or disapproved by official bodies. This self-censorship is even more dangerous to the independence of media because it is not visible. In some of the provinces, certain specific topics considered to be sensitive by the provincial government, such as globalization, were also off the limits from public discussion

We are also gravely concerned by the lack of action on the part of the law enforcement agencies with regard to that these attacks on journalists. Most, if not all, cases that we have been informed about have ended without proper investigation and the perpetrators were never identified, perpetuating impunity against journalists and witnesses.

Access to information in the government and the non-cooperation of government officials remain serious obstacles for many journalists. Refusal to provide information by public authorities is usually made on the ground of state secrecy. The broad and unclear definition of state secrets in the Law on State Secrets and the Law on the List of Secret Information 1995

allow public officials to apply subjective judgment regarding interpretation resulting in uncertainty and routine refusal of information requests. Even more troubling than the legal definition is the lack of openness on the part of public officials. The general attitude by the public officials showed that there was a low level of respect for both the journalists' right to report information and the right of the public to receive information. Many provincial authorities had no concrete plans on the implementation of the new Law on Information Transparency and the Right of Access to Information and did not seem to have a clear understanding of their legal obligation under this new law.

Media ownership remains non-transparent in Mongolia. With media playing an important role in politics, especially during election campaigns, the mission was informed that many politicians own directly or indirectly media outlets. Where these relationships are non-transparent, it not only blurs the distinction between real news and political propaganda, more importantly, it undermines the role of independent media in a democracy to monitor politicians and be the watchdog of the government.

It is our view that one of the most serious problems in Mongolian media industry is the lack of a sustainable financial model to support and maintain independent media. The Mongolian media market is small. In a country of three million people, there are more than 400 media outlets. There is a stiff competition among the media outlets for audience and advertising, which inevitably means that normal operating model such as subscription and advertising, is not viable. This forces journalists and media outlets to seek other sources of income to remain in business. The practice of accepting payments to produce stories favourable to politicians and others become routine practice and compromises the credibility of the media industry. It also significantly undermines the standards of journalism and leads to a vicious circle of public distrust in the media leading to decreased circulation, less income, more reliance on irregular sources of funding and so on. A regulatory reform of the whole media industry is required and a new alternative funding model to encourage independent media must be considered."

The Mongolian government should expedite its law reform for the protection of journalists and media freedom in order to strengthen its young democracy.

The international fact finding mission recommended the Mongolian government to:

1. Abolish Article 110 on slander and Article 111 on defamation from the Criminal Code. All criminal defamation cases should be dropped;
2. Introduce public interest defense in the law in order to protect the right of journalist to report on public interest cases with proper legal protection;
3. Provide legal protection to the journalists and media organizations on non-disclosure of their source of news. The protection accorded to the journalists working in public radio and television under the Law on Public Radio and Television of 2005 should be expanded to cover all journalists;

4. Provide better access to legal resources and support for journalists;
5. Make the media ownership transparent with the information of media ownership accessible to public;
6. Introduce transparency into paid materials in media and a clear indication of its nature should be imposed;
7. Review and strengthen the regulatory framework on the granting of radio and television licenses to ensure that there is a healthy competition in the market but at the same time, professionalism and sustainability of independent media are not undermined by oversaturation of the market.
8. Review its state secrecy laws and define state secrets clearly and narrowly;
9. Establish an independent Ombudsman office with adequate powers on civil service that will receive public complaints and discipline civil servants;
10. Establish an independent Press Council to receive public complaints on media, enforce the code of conduct for media practitioners and enhance the professionalism of journalism.
11. Conduct public awareness on the Law on the Information Transparency and Right to Information and make the law easily and widely accessible and training for public officials, especially those at the provincial governments on handling information requests.
12. Conduct education and training programs for public officials on democracy, human rights and the role of media. This should aim to create a culture of democracy and human rights that include a critical and vibrant media industry and civil society.
13. Improve the quality of journalist education provided in colleges and universities and ensure that there is ongoing professional training provided to working journalists.

ONLINE MONITORING SELF-ALERTING SYSTEM

In May 2010, Globe International switched to the online self-reporting system at www.globeinter.org.mn/selfalerting and the journalists are able to report on violations of their professional rights. Those journalists who are currently not able to use the online system would have the possibility to use other tools to contact our Alerts Coordinator. These tools are as follows:

- ✓ Yahoo messenger: alert_mon
- ✓ Mobile: 976-99127127; 976-99193327
- ✓ Local: 976-11-324764; 976-11-324627
- ✓ Fax: 976-11-315326
- ✓ Facebook
- ✓ Emails: globe@globeinter.org.mn; globenews@globeinter.org.mn; globemon@gmail.com

Globe International distributes alerts on violation of free expression to the media and a national and international network (including IFEX, IFJ, Freedom House, Reporters without Borders, Internews International, Global Forum for Media Development (GFMD), Forum Asia, a Bangkok-based human rights network, Article 19, embassies and international bodies operating in Mongolia) using the following tools:

- GI website www.globeinter.org.mn
- GI e-marketing tool with 5000 classified users
- Bi-monthly online newsletter Globe News
- Press Conference
- Annual Media Freedom Report
- Social media Facebook