

MEDIA FREEDOM REPORT

2020





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LIST OF ABBREVIATIONS

GIC	Globe International Center
SGKh	State Great Khural (Parliament)
CRC	Communications Regulatory Commission
MOJHA	- Ministry of Justice and Home Affairs
IAAC	Independent Authority against Corruption
LITRI	Law on Information Transparency and the Right to Information
MCM	Media Council of Mongolia
MNT	Mongolian tugrik
NHRC	National Human Rights Commission
UDHR	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
MNB	Mongolian National Broadcaster
UN	the United Nations
UNESCO	the United Nations Educational, Scientific and Cultural Organization

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FOREWORD

We are presenting to you our annual Media Freedom Report prepared on the occasion of the World Press Freedom Day (WPFDD) annually marked on May 3.

This year's World Press Freedom Day coincides with the 30th anniversary of the Windhoek Declaration for the Development of a Free, Independent and Pluralistic Press, which was produced at a UNESCO seminar held in Windhoek, the capital of Namibia in 1991. In December 1993 the UN declared May 3 as World Press Freedom Day. Furthermore, WPFDD concurs with Mongolia's 60th anniversary of UN membership and acknowledgement of the Universal declaration of Human Rights (UDHR) by the country.

UNESCO identifies the 2021 World Press Freedom Day theme as "Information as a Public Good" in its Concept Note and highlights the following three key topics:

- Steps to ensure the economic viability of news media;
- Mechanisms for ensuring transparency of Internet companies;
- Enhanced Media and Information Literacy (MIL) capacities that enable people to recognize and value, as well as defend and demand, journalism as a vital part of information as a public good. UNESCO emphasizes that this year efforts will be directed to draw attention to the special role of journalism in producing news as verified information in the public interest, and to how this depends on a wider ecosystem that enables information as a public good.

The COVID-19 pandemic is still posing enormous challenges to humankind. While countries have been taking unprecedented measures to deal with the pandemic, the realization of the public's right to know, the professional right of media and press freedom situation remain challenging. These days, reliable, accurate and objective information is critical for the people. With this in mind, UNESCO produced a series of Policy briefs on combating the disinfodemic (pandemic of disinformation) entitled "Deciphering COVID-19 disinformation" and "Dissecting responses to COVID-19 disinformation."¹ "COVID-19 disinformation creates confusion about medical science with immediate impact on every person on the planet, and upon whole societies. It is more toxic and more deadly than disinformation about other subjects.

¹ <https://en.unesco.org/covid19/disinfodemic>

That is why this policy brief coins the term disinfectemic.” Negative impacts of disinformation can have fatal consequences during the pandemic and it can be a matter of life and death. “Disinformation thrives in the absence of verifiable, trustworthy information. Equally, it can also flourish amid high volumes of content when people may find it difficult to distinguish credible information from disinformation; between what is a verified fact and what is not” as noted in the Policy briefs. The translation of the first part of the Policy briefs is publicly available on our website.

Journalism plays an essential role to prevent the spread of disinformation and effectively fight against it. Although, it is particularly concerning that restrictive laws hinder the legitimate professional rights of journalists. The 20th Status Report on Human Rights and Freedoms in Mongolia compiled by the National Human Rights Commission of Mongolia noted: “Taking preventive legal measures against the spread of obviously false information during the state of emergency is consistent with human rights principles. However, criticism of professional organizations that the lack of narrow definition of what constitutes “obviously false information” and “the spread of false information” allows arbitrary use of laws by those in power and creates a chilling effect on media freedom and freedom of expression is reasonable.”

It is regretful that in practice, legal changes made in light of the pandemic are being misused against citizens. According to our monitoring of violations of civil and political rights conducted from 25 November 2020 to 25 February 2021, around 80 cases of violations have been documented. Furthermore, more than half of 300 Mongolian journalists involved in a survey undertaken by the Mongolian Media Council considered that “since the implementation of the state of “all-out-preparedness”, media freedom has deteriorated.” Two-thirds of the respondents said, officially provided news was prevailed in most of the information they published.” As of the constraints in ensuring balanced sources of information, the respondents said that “journalists were self-censored.”

On 4 November 2020, the UN Human Rights Council during its 36th session reviewed Mongolia’s human rights status for the third time. Earlier, the session had been scheduled for 4th to 15th of May 2020. However, due to the COVID-19 pandemic, it was postponed and held online. Unfortunately, eight freedom of expression-related recommendations made during the previous Human Rights Council session are not implemented yet. Human Rights Council’s 2020 recommendations regarding the full exercise of freedom of expression include: to decriminalize defamation, investigate attacks against journalists and media workers, to ensure the safety of journalists, to adopt an

effective data protection legislation to better protect the right to privacy and to lift restrictions imposed on the media and Internet use. We do hope that the Parliament and Government will put necessary efforts to fulfill these recommendations.

In 2020, both the Parliamentary and Local Elections were held under the new Election Law. The Election Law of 2015 with integrated parliamentary, presidential and local elections has been renewed in 2020 by enacting separate laws governing each election. However, provisions of these laws still encourage censorship against the media, and journalists have worked under strict legal restrictions during the Elections.

As of the end of 2019, there were around 500 registered media outlets that employ nearly 4750 people, out of which half are journalists and creative staff, according to the Mongolian Press Institute survey.

According to the Reporters without Borders (RSF) 2021 World Press Freedom Index, Mongolia is ranked at the 68th place out of 180 countries, up to 5 places from the last year. However, it remains a country having issues around press freedom.

Naranjargal Khashkhuu,
Chair of the Board, Globe International Center

ONE

MEDIA LEGAL FRAMEWORK

1.1. GUARANTEES OF FREEDOM OF EXPRESSION

The Constitution of Mongolia and International human rights standards

The Constitution of Mongolia, article 16 of the Chapter on Human Rights and Freedoms guarantees freedom of thought, opinion, expression, speech, and the press. Article 19.1 states “The State shall be accountable to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, and shall fight against the violations of human rights and freedoms, and shall restore such infringed rights.” Moreover, article 16.17 reads that “The right to seek and receive information on any issues, except which the

State and its organs are legitimately bound to specifically protect as relevant secret.” Although, the article does not ensure a certain right to “impart information” can be considered that the right to “seek, receive and impart information of all kinds, regardless of frontiers”² in consistent with international human rights standards is constitutionally guaranteed.

Mongolia became a UN member state in 1961 and acknowledged the Universal Declaration of Human Rights (UDHR). In 1974, the country ratified the International Covenant on Civil and Political Rights (ICCPR) and in 2012 became a participating state of the Organization for Security and Co-operation in Europe (OSCE). As such, Mongolia is legally bound to protect freedom of expression under its human rights obligation. In conformity with article 10 of the Constitution, international agreements and treaties are effective as domestic legislation. This is formally secured in article 10.3 of the Constitution that declares “The international treaties to which Mongolia is a party become effective as domestic legislation upon the entry into force of the laws on their ratification or accession”. These international agreements

² ICCPR, Article 19.2

were published in Turiin Medeelel (State Gazette) in 2004.

Articles 19 of both the UDHR and the ICCPR guarantee the right to freedom of opinion and expression. This right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 19.3 of the ICCPR narrowly defines restrictions by stating that “The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

Restrictions to the right to freedom of opinion and expression can only be justified on the grounds of the constitutional concepts and international human rights standards, and if they pass the "three-part test" of legality, legitimacy and proportionality. Although restrictions imposed beyond these grounds are not justified, there are still some undue limitations applied in practice that could lead to violations of human rights and fundamental freedoms. The General comment No. 34 on the right to freedom of opinion and expression (Article 19) adopted by the UN Human Rights Committee on 11-29th July 2011 during its 102nd session held in Geneva was unofficially translated into Mongolian³ by our organization. There is a need for an official translation of this document. Eventually, the implementation in the practice and the promotion and awareness raising among relevant stakeholders are required.

On 14 November 2019, the Constitution of Mongolia was amended, and the main changes in article 6.2 reads that “The citizens shall have the right to know about the environmental impacts of the use of subsoil within their rights to live in a safe and healthy environment”, thereby guaranteeing citizens’ right to seek, receive and disseminate information on certain issues.

The Constitution of Mongolia, article 16.17 declares that "To protect human rights, dignity and reputation of individuals and to ensure national defense, security and public order, the information which is not subject to disclosure shall be classified and protected by the law", thereby indicating legitimate aim to justify restrictions of the right to freedom of opinion and expression. Section 1.4.4 of the Criminal Code of Mongolia states that "No one may be subjected to a criminal penalty for his/her opinion and beliefs." Opinions and beliefs without means to express them make freedom of expression

³ https://www.gjc.mn/public/docs/publications/General_comment_No34_ICCPR_Art19_mon.pdf

impossible to be fully realized.

The newly amended Criminal Code contains a progressive provision towards the guarantees of freedom of expression by not penalizing for exercising the right to free expression or to publish. Moreover, section 14.3 prohibits any act that violates freedom of expression and the press by stating that “An action of using force, or threatening to use force, or refusing to publish by paying, to the publisher’s lawful activity for the purposes to disseminate or conceal any confidential information related to a person, or threatening to cause serious harm to the rights and legitimate interests, may be punishable by fine equal to from 400 to up to 2700 units (a unit equals MNT 1000), or from 240 to 720 hours of community service, or a penalty of limitation of free travel right for a term from one to six months.

Since the Criminal Code became effective on 1 July 2017, in 2018 and 2019, two cases were investigated under the above-provision, from which one was dismissed and another one was transferred to the court as indicated in an official letter of the General Prosecutor’s Office dated on 19 April 2021, No. 1/2298 sent to the Globe International Center. It can be said, that although the Criminal Code protects freedom of expression or media freedom, not only citizens but also journalists are reluctant to lodge complaints against violations of these rights.

1.2 MEDIA FREEDOM AND PROFESSIONAL JOURNALISTIC ACTIVITIES

The 1998 Media Freedom Law, sections 2, 3 and 4 prohibit the Government to pass any laws restricting media freedom, to own its mass media and to censor the content of public information. This Law is the main regulation guaranteeing media freedom. While section 2 of the Law prohibited the Parliament to pass any laws restricting media freedom, article 3 provided that, “The Government shall not censor the content of public information. Media organizations shall take responsibility for their publications and programs.” Section 4 of the Law prohibited the Government to own mass media. The Law is considered as the fundamental regulation that secures media freedom in Mongolia. The Supreme Court of Mongolia interpreted the definition of “media outlets” as “information dissemination tools are referred to television, radio and telecommunications networks, computer networks, specific softwares, print media and other tools” in the Law on Advertisement,

section 3.1.5.

On 27 January 2005, the State Great Khural (SGKh) enacted the Law on Public Radio and Television, establishing legal grounds for public broadcasting, which operates under public oversight and receives funding at the national level. Since then no legal regulation has been introduced for the media sector to address concerning issues, including the protection of whistleblowers and confidential sources of journalism, as well as fair competition and transparency of ownership. Nonetheless, the Law on Broadcasting was enacted by SGKh on 12 December 2019. A ruling Mongolian People's Party in its 2020 election platform, section 4.4.2 promised to ensure legal protection for media freedom and to avoid imposing policy restrictions on media. Although, several drafts of the new Media Freedom Law have been developed, SGKh is yet to discuss the final version and adopt it.

Proposed amendments introduced by the Ministry of Justice and Home Affairs to the Criminal Code was published on 8 December 2020 on their official website. They contained an aggravation of the offence of spreading false information in section 13.14. The amendments proposed an increase of previously imposed fine equal to 450 to 1300 units (approx. from US\$160 to 460) to fine equal to 5.400 units (approx. from US\$1.895) or imprisonment for a term of up to one year. Furthermore, if such crime is committed by an organized group (a stable unity of three and more persons joined), it may be punishable by a fine equal to 27 million MNT (approx. from US\$9.474) or imprisonment for a term of up to five years; if a legal entity involved in the crime, it may be punishable by a fine equal to 80 million MNT (approx. from US\$28.070).

Media-rights associations, unions and civil society strongly expressed their strong accusation against the proposed amendment by issuing joint statements, sending a protest letter to the Justice Minister and convening a meeting with the Minister. As a result, the Ministry of Justice and Home Affairs refused to present the proposal to the Parliament and announced to make amendments to the relevant laws after the renewal of the Media Freedom Law.

The renewed Law on National Human Rights Commission, section 7.1.2 ensures the right of the Commission to present proposals to the State Great Khural on whether existing legislation and decisions made by administrative bodies are consistent with the Constitution, international agreements and human rights principles. Within this right, Acting Chief Commissioner issued

an order NoA/01⁴ on 13 January 2021 to establish a working group to develop a proposal for the renewal of the Media Freedom Law.

The State Great Khural adopted several policy documents to improve the media legal environment. Those include the National Human Rights Action Program (NHRAP)⁵ adopted by the Resolution No. 41 of 2003. Its section 2.2.5 contains measures to guarantee the right to information and freedom of expression, and clause 2.2.5.4. reads that “The laws regulating the registration of media enterprises shall be amended as necessary in such a way that all relevant procedures and requirements may be clearly understood”; clause 2.2.5.6 states that “A rational legal mechanism shall be introduced to ensure the right of journalists not to reveal their sources, to prevent groundless harm by members of the media to the reputation or privacy of others while protecting their freedom of expression, and to remedy any such violations.”

Mongolia’s long-term development policy 'Vision-2050' was approved by the Parliament by its Resolution No52 in 2020. While for the period of 2021-2030, the policy document determines to “ensure a freedom of the press in all respects and develop ethical and professional journalism” (section 5.5.9)⁶, the Action Plan for 2020-2024 of the Government of Mongolia specifies to “develop the media sector in the field of dissemination of factual information and enlightenment” (section 2.6.4).⁷ Section 4.4.11 of the Action Plan determines to “improve the legal framework for citizens to exercise their constitutional right to worship or not, the right to association and access to information.”

The National Security Concept stated that “the State, citizens and mass media shall jointly implement a policy to shape social psychology by which citizens will be proud of their country, nationality, national accomplishments and progress and respect national interests, ethics, law and statehood” (3.3.3.2). Furthermore, the Concept states to enhance the autonomous and independent status of the media, to improve responsibility, professional competence and ethical conduct norms of media personnel, and to maintain social stability (3.3.4.3).

According to the results of a survey conducted in March 2021 among 80

⁴ <https://nhrcm.gov.mn/%D0%BC%D1%8D%D0%B4%D1%8D%D1%8D/freedom/>

⁵ https://adsdatabase.ohchr.org/IssueLibrary/MONGOLIA_National%20Human%20Rights%20Action%20Programme.pdf

⁶ https://cabinet.gov.mn/wp-content/uploads/Vision2050_-2021-2030_Activities_Final_OE.pdf

⁷ https://cabinet.gov.mn/wp-content/uploads/2020-2024_-ActionPlan_GOM_Eng_Edited_OE-2.pdf

journalists and media professionals by the Working group under the National Human Rights Commission, press freedom has a “moderate” level with 64.6 per cent of respondents. The awareness of journalists on the Media Freedom Law is unsatisfactory, 58 per cent said that their awareness of the Law is good but not satisfactory, 23.5 per cent responded as having low understanding, and 13.6 claimed that they had no understanding about the Law. Most of the respondents (83.8%) considered that the Media Freedom Law should be renewed. With this in mind, 48.8 per cent of them said that this would ensure the right to know, 46.3 per cent considered, environment for the free press would be established, 42.7 per cent said that ethics of journalists would be improved, and 41.5 per cent have an expectation for the improved journalistic ethics. According to the respondents, it is crucial to ensure the protection of sources, the safety of journalists, to eliminate the practice of harassment by law enforcement stakeholders, to ensure the openness of public agencies, and to determine journalistic ethics.

At the international level, the press freedom situation of Mongolia is problematic. The country is ranked at 68th out of 180 countries by scoring 28.97 points in the 2021 World Press Freedom Index by the Reporters without Borders, jumping five places from the past year. However, it still remains a country having a problematic situation around press freedom. As noted by the RSF, Mongolia has “resisted the temptations of pandemic-linked absolute information control fairly well, thanks to media that have been able to assert their independence vis-à-vis the executive, legislature and judiciary.”⁸ Besides Mongolia, 58 countries were assessed as having problematic situations around media freedom. In order to reach a satisfactory situation, Mongolia has to jump 20 places and be ranked at 48 or above. Mongolia saw the greatest improvements in 2005 and 2015, and ranked at 54th. The biggest rise happened in 2015 by jumping 34 places from the previous year. Experts concluded that there were low number of violations and the positive effects of the freedom of information law introduced in 2012 began to show.⁹

CONFIDENTIAL SOURCES OF JOURNALISTS

⁸ <https://rsf.org/en/rsf-2021-index-censorship-and-disinformation-virus-hits-asia-pacific>

⁹ <https://www.dw.com/en/reporters-without-borders-new-threats-against-freedom-of-the-press/a-18250740>

<https://reliefweb.int/report/world/world-press-freedom-index-2015-decline-all-fronts>

Mongolia has no legislation protecting the confidentiality of sources for non-public media professionals. The 2005 Law on Public Radio and Television protects confidentiality of sources for journalists from the Mongolian National Broadcaster (section 34.2). Journalists have the ethical duty to protect the confidentiality of their sources in line with standards set out in the Mongolian Media Ethics Principles endorsed by the Ethics Committees of the Media Council of Mongolia on 14 April 2015.

Moreover, the Action Plan for the implementation of the National Anti-Corruption Strategy of 2016 approved by the Government Decree No.114 of 2017, section 4.1.8 indicates certain actions to ensure media independence and the safety of journalists. In particular:

- to guarantee the rights of media organizations to access and disseminate information (section 4.1.8.1);
- to establish a legal framework for protecting journalists specialized in investigative journalism on corruption cases from being pressured in any way, to change the mechanism in which journalists are charged with crimes due to their professional performances, and to create a mechanism to protect journalists in general (section 4.1.8.2);
- to establish a legal framework to protect the independence and freedom of the media (section 4.1.8.3).

With regard to the approval of a detailed plan of action for the implementation of the above-mentioned actions, a working group to release a draft on the Law on Protection of Public Interest Whistleblowers has been established under the Independent Authority against Corruption in 2019, to establish a legal framework for protecting confidential sources of journalists and whistleblowers. The draft law has not yet been submitted to the Parliament.

The Law on the Legal Status of Human Rights Defenders was adopted on April 2, 2021 by the Parliament. The Law will come into force on 1 July 2021. The law is expected to make a progress in the protection of sources.

1.3 FREEDOM OF INFORMATION AND RESTRICTIONS TO THE EXERCISE THEREOF

The Public Radio and Television Law of 2005 protects the rights of media professionals of the Mongolian National Public Radio and Television (MNB) by section 34.1, providing that, "Personnel of the Public Radio and Television shall have the right to obtain information except other information related to secrecy of state, organization and privacy, and make it generally available." As a result of a multistakeholder online discussion jointly organized by GIC and Open Society Forum in December 2020, "A review on Public Radio and Television Law" was published.¹⁰ Discussion participants provided comments on the efficiency of the Public Radio and Television Law such as to hold public hearings on the implementation of the Law according to the Public Hearing Law; to organize a unit according to section 18.3 of the Public Radio and Television Law; to legalize social issues of workers at the Mongolian National Broadcaster; to continually take action to raise public awareness on public broadcasting issues; to amend the Law by adding provisions related to the editorial independence.

With the adoption of the Law on Information Transparency and the Right to Information (LITRI) in 2011 by the Parliament, not only citizens but also media and journalists are entitled to the right to information. According to the LITRI section 6, public bodies are obliged to disclose information regarding their activities, budget, finance, procurement and services, carried out by state and local funding. Any citizen and/or legal entity retains the right to request information by any means desired, and officials are legally obliged to respond to access to information requests within seven business days at maximum, and if required, this period can be extended by another seven business days. If the requested information is available, citizens and legal entities shall be given immediate access. Moreover, there exist regulations on the implementation and monitoring of the law by taking notes to monitor law implementation (section 23) and to make these notes as assessment indicators of outcome agreement (section 24). However, the implementation of the LITRI is not sufficient according to the results of recent surveys. For example, the IRIM Research Institute's 2012 research on the transparency of government agencies' websites, GIC's 2013 baseline study on "Increasing Citizens' Access to Information and Promoting Transparency in Mongolia," study on the implementation of sections 23 and 24 of the LITRI jointly

¹⁰

conducted by GIC and the Zorig Foundation in 2014, and GIC's analysis of 2019 on the legislation restricting the right to information.

Another example of poor implementation of the law is that there was a case of a refusal of information request written by a citizen. An official refused to transfer the letter to a relevant official on the ground that his position has been changed and other personnel was appointed to this position. Such an act is a breach of the law as there are only two reasons for the refusal of information requests. Namely, the first reason provided in article 13.2.1 states that the grounds of refusal shall be "a request fails to meet the requirements specified in the section 11.3 of this Law (11.3. The request for information by the citizen and legal entity shall provide information of full name, address, e-mail address, telephone number, number of national ID or its equivalent and signature in case of both a citizen and a legal entity). Another reason is that "information mentioned in the request is not in possession of the organization, and it deems impossible to transfer the request to a relevant organization (section 13.2.2).

Section 9 on the "transparency of the budget and finance" and section 10 on the "transparency in the procurement of goods, works and services by the state and local government financing" became ineffective as the Law on Glass Account came into force on 1 January 2015. Other regulations related to the budget, finance and procurement not administered by the Glass Account Law remain valid.

Developed by the Ministry of Justice and Home Affairs, the revised draft of the Law on Public Information and the draft Law on Protection of Personal Information were included in the agenda of the Parliament's spring session in 2021. With the adoption of these laws, the LITRI shall be invalidated. The aforementioned type of information is open to the public as the legislation on the regulation of public and private interests and prevention of conflict of interest in public service obliges public officials to declare the non-existence of a conflict of interest. Moreover, the Anti-Corruption legislation requires them to declare personal and families' assets, income and loans. In 2018, the Law on Combating Money Laundering and Terrorism Financing, the General Law on State Registration, and the Law on State Registration of Property Rights were enacted. The Law on Crime Prevention of 2019 enshrines the principle of transparent and open information to the public in line with the LITRI. To ensure transparency and openness, it is required the mandatory presence of media representatives and the mandatory dissemination of information through the media.

Due to the COVID-19 pandemic around the world, legislation restricting the free flow of information have been enacted and implemented. For example, the Law on Coronavirus (COVID-19) prevention, fight, and mitigation of its socio-economic impact (the COVID-19 law), adopted by the Parliament on 29 April 2020, includes several concerning provisions. These are:

- To prevent the spread of false and misleading information online, the National Police Agency shall adopt a regulation for the online space jointly with the Communications Regulatory Commission, and shall take control of its implementation (section 9.13).
- It is prohibited to mislead others or disseminate false information with regard to the prevention, fight, and mitigation of the socioeconomic impact of the pandemic (section 12.3).

The Law on Administrative Offences and the Law on Disaster Protection were amended with the adoption of the COVID-19 law. Section 10.4.13 of the Law on Disaster Protection states that “measures to reduce or stop the spread of obviously false information about disasters in the mass media and social networks shall be taken within a certain scope and period in regard to circumstances”. However, section 5.13.1 of the Law on Administrative Offences provides that, “The spread of misleading or false information in case of disaster, catastrophe, communicable disease, accident or threat shall be punishable, if not criminally liable, by a fine of 500 units (a unit equals to 1000 MNT) for a person and 5000 units for a legal entity.” Section 5.13.3 states that “A legal entity shall be punished by a fine of 5000 units if it fails to fulfill its obligation to provide information provided by the competent authority free of charge and in an unimpeded manner.”

On 23 September 2020, the National Police Agency announced to set up an independent unit to combat false information. The new unit is expected to investigate the spread of allegedly false information on social networking sites that might threaten national security or harm others’ honor and reputation.¹¹ The function of the unit contradicts the Media Freedom Law that prohibits state control or censorship over the content of public information, and the establishment of organizations to monitor news and information that are published and broadcasted by media outlets. Due to the lack of legal interpretation with regard to the spread of false information, there is a risk of misuse or overuse of the law, unjustified arbitrary investigations into complaints to punish citizens and journalists. In addition, challenges

¹¹ <https://news.mn/en/794046/>.

in the application of the law such as its arbitrary application and potential abuse by those in power have been increasing because of the absence of a clear definition of the terms “misleading the public” and “obvious false information.”

The Information Risk Committee was set up by Government Decree No. 29 of 10 February 2021.¹² Subsequently, the composition of the Information and Communication Risk Temporary Committee under the State Emergency Commission has been changed by Government Decree No. 39 to include heads of relevant ministries and agencies and the Chair of the National Council of MNB. The United Nations and international human rights organizations have been continually urging countries to adhere to human rights standards while taking response measures to tackle the pandemic. They called governments to engage in open dialogue, to ensure the free flow of information, to increase access to reliable information, timely and accurate information for all, and to refrain from blocking internet access and other communication tools. Furthermore, they urged states to avoid restricting media freedom, imposing censorship on the media, and to adhere the rights-based approach in introducing restrictive legislation.

As per the above Government Decree, the function and responsibility of the Temporary Committee, and working rule for the emergency group have not yet been approved. Moreover, the duration of the Committee's function is not clearly defined. In addition, the Decree might pose a risk of abuse against an individual or official who provides information. The reason behind it is that Paragraph 4 of the Decree provides that, “The Temporary Committee and the Working Group shall be provided with timely and accurate information which shall be presented only through single certain channel and as per the guidance of the Temporary Committee. Public officials are prohibited to spread misinformation to the public, and in case to do so, relevant minister, agencies' heads, aimags and capital city governors are instructed to take necessary measures against these officials in accordance with laws.” However, it is not clearly defined which particular law it is.

¹²

1.4. ELECTION AND THE MEDIA

The 2020 Parliamentary Election was conducted in accordance with the renewed law as the Law on the Election of the State Great Khural (Parliamentary Election Law) was enacted by the State Great Khural on 20 December 2019. Furthermore, the Law on the Election of Aimag, Capital City, Soum and District Citizens' Representatives (Local Election Law) was adopted on 30 January 2020, and the Law on Presidential Election was passed on 24 December 2020,

The Parliamentary Election Law contains new regulations, such as the prohibition of any person who found guilty of the criminal offence of corruption or official misconduct by the court to be nominated for elections (section 29.8), and the invalidation of a ballot paper in the event if a voter marked more or fewer candidates than the number of mandates allocated for the constituency (section 72.1). Sections concerning election platform and the election campaign of the Parliamentary Election and the Local Election Laws regulate election platforms of political parties, coalitions and independent candidates, an analysis of election platforms, publication and promotion using a press, radio, television and digital media. The section concerning the election campaign covers new provisions on publishing on daily or other newspapers or journals. The section provides that for websites, users' comments section shall not be used for a digital media campaign (section 47.3).

Moreover, section 48.7 prohibits media outlets to make a promise or sign a contract to publish solely or not to publish news and information on either one party, coalition or candidate in the course of the election campaign, thereby prohibiting for the first time contracts of silence or non-disclosure agreements signed by the media outlets. The laws on Presidential, Parliamentary, as well as local election law, contain a new provision that prohibits disseminating false information defaming candidates, to distribute any printed materials that contain such kind of content or publish via social networking sites.

With the amendment of the Election Laws, section 17 on breaches of political rights and freedoms was added to the Law on Administrative Offences on 20 December 2019. It provides that in case of a breach of the Election Laws, a media outlet may be punished by a fine of up to 200 million MNT (approx. US\$76.130). This may lead to economic censorship. On the other hand, it becomes an established practice to amend election laws

prior to each election cycle. These amendments increasingly invade into the distribution of independent news and impose harsh restrictions on the professional activities of journalists. According to section 3.1 of the Media Freedom Law, “Media outlets/organizations should bear the responsibility for the information published and broadcasted by them”. However, Parliamentary Election Law states that media outlets or media workers shall bear responsibility, which contradicts the above provision. Although it is prohibited by law to censor media outlets, CRC is entitled to power to suspend a license of a broadcaster who breaches the Election Laws. There still exists government censorship on the media through the control of government agencies such as the Authority for Fair Competition and Communications Regulatory Commission.

The Parliamentary Election Law, section 46.12 ensures the equal allocation time for each party, coalition and candidate over the public radio and television. However, the 2020 Parliamentary Election suspected the significant rise in the number of independent candidates than the previous election, with 208 persons nominated their candidacy, thereby making it difficult to properly implement the law as the results of election monitoring on five television¹³ conducted by GIC indicates.

With regard to the enactment of the Election laws, the General Election Commission introduced several procedures. Specifically, the procedure on the broadcasting of election campaign programs on radio and television and oversight mechanism, and the procedure on using the Internet for election campaigning and oversight mechanism have been adopted, undergone an impact assessment by the Ministry of Justice and Home Affairs and registered in the state registration. These procedures also will be implemented during the 2021 Presidential Election.

In May 2019, the Media Council of Mongolia introduced new regulation added to the Media Ethics Principles to resolve complaints lodged before the end of an election campaign prior to polling day. While section 1.8 of the Media Ethics Principles provides that “Fair reporting includes giving the opportunity to persons to comment allegations of third parties”, section 10 added in 2019 says “Media shall avoid disseminating any reporting/information on an accused person while a period he/she cannot make any explanation before the election day”. This principle was implemented for the first time during the 2020 Parliamentary election. Thus, the Media Council can be recognized as an effective mechanism during election years to resolve

¹³ https://www.gic.mn/public/docs/publications/media_monitoring_20210412.pdf

complaints lodged against journalists and media organizations for allegedly spreading false information.

1.5. THE LAWS OF DEFAMATION

In Mongolia, reputation, honor and dignity are protected by both Civil and Criminal Codes.

A. Criminal Code

The revised Criminal Code, which came into effect on 1 July 2017, repealed provisions on defamation and insult, thereby making a progress towards the promotion and protection of freedom of expression and media freedom. Nevertheless, as per amendments made to the Criminal Code on 10 January 2020, spreading false information has been considered a criminal offence. New section 13.14 provides that, "The spread of obviously false information, causing damage to others' honor, dignity or business reputation of legal entities, shall be punishable by fine equal to 450 to 1300 units (a unity equals 1000 MNT), 240 to 720 hours of forced labor or restrictions upon travel for a period of one to three months." On 16 March 2021 three MPs have submitted a proposal to amend the provision of false information.

Another criminal defamation provision, section 14.8 states that "The spread of obviously false information during elections shall be punishable by a fine equal to 450 to 5400 units, or 240 to 720 hours of forced labor or restrictions upon travel for a period of up to one year. In 2020, there were no penalties regarding the provision.

B. Civil Code

The Civil Code section 497 provides that, "A legal person who caused damage to others' rights, life, health, dignity, business reputation or property deliberately or due to negligent action/inaction shall compensate for that damage". Moreover, section 511 of the Civil Code states that "If a party responsible for distributing information damaging others' honor, dignity and business reputation fails to prove that it is true shall be liable to compensate the non-material damage in monetary or other forms separately from the material damage". Concerns have arisen that the above-mentioned civil defamation provisions might allow government organizations to bring defamation suits against citizens and journalists. Another concern is that

the Civil Code places the onus on a person who disseminated an allegedly defamatory statement to prove that the information is "accurate" or "true."

Besides the Election Laws, defamation provision is contained in the new Law on the Legal Status of Human Rights Defenders (LLSHRD) passed on 2 April 2021. Section 8.1.3 prohibits human rights defenders "to defame honor, reputation and fame at the working field of others." The Law was not officially published in the State Gazette edition №15 (1165) of 22 April 2021. Initially, the draft law submitted by the Legal Standing Committee to the State Great Khural defined the main principle of human rights defenders as "to respect honour, reputation, rights, and legal interests of others" in section 5.1.5, whereas it did not contain any restrictive provisions.

Honor, dignity and business reputation are protected by the Constitution as well as international law. While article 16.13 protects the right to personal liberty and safety, article 17.2 provides that the dignity, reputation, right and legitimate interests of others shall be respected. In addition, Article 19 of the ICCPR provides that the exercise of freedom of expression may be subject to restrictions "for respect of the rights or reputations of others."

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders) was adopted by consensus by the General Assembly in 1998 (A/RES/53/144). The Declaration does not contain any provision that prohibits defamation of honor, dignity and business reputation of others.

The concept of the Law on the Legal Status of Human Rights Defenders mentions that the act of defamation of human rights defenders has been increased; however, it does not provide any provision prohibiting defamation. Section 8.1.3 of the Law clearly contradicts the objective of the Law which states "to recognize, promote, respect, protect the rights of human rights defenders, provide working condition and collaborate with human rights defenders."

Every person is under obligation to respect honor, dignity and business reputation of others by the Constitution and international agreements to which Mongolia is a party. Thus, there is no need to specifically prohibit defamation by human rights defenders. This provision may lead to censorship and harassment of human rights defenders and limit their legitimate actions. Moreover, it may be misused by those in power against human rights defenders.

1.6. CONTENT RESTRICTIONS

Several existing laws in Mongolia contain content restrictions, including the Law on Child Rights; the Law on the Prevention from Crime; the Law to Control Circulation of Narcotic Drugs and Psychotropic Substances; the Law on Combating Pornography and Prostitution Act; the Law on Anti-Alcoholism; the Law on Combating Trafficking in Persons; and the Law on Copyright and Related Rights. It should be recognized that these restrictions are imposed to safeguard the public interest. However, concerns over the possibilities of these provisions to create a condition in which such restrictions may be overused have been raised, since the terminology and scope are not narrowly defined. This may also cause harm to journalists' duties.

Enacted on 5 February 2016, the Law on Child Protection section 8 on child protection in the media and online space protects children from online games, news, information, advertisements, and online networks that could negatively affect child development, health and upbringing. Instructions on child protection shall be open to the public and permanent control shall be taken over. The regulation passes the principles of legality and necessity to maintain public order as outlined in article 19 of the ICCPR.

Some law provisions place statutory obligations to distribute the state information. They can be classified into two parts: obligations and restrictions imposed on the distribution and the content.

Obligations imposed on the distribution

- Radio, television and other news outlets shall give a warning forecast freely to the public with the use of special sounds and visual signals within 15 minutes of receiving it (the Law on Hydrology, Meteorology, and Environmental Monitoring, section 15.2).
- Media outlets shall inform on the start and the end of the war (the Law on War, sections 5.4 and 6.3).
- During a state of emergency, communications and media organizations shall disseminate news and information about disaster without any delay (the Law on Disaster Prevention, section 10.5).
- In case of the need to disseminate breaking news to the public, media and communication tools shall be used regardless of their ownership (the Law on Police Service, section 59.1.2).

- Programs promoting youth development shall be reflected in the content of publications and programs of media organizations (the Law on the Promotion of Youth Development, section 8.1.5).
- Media outlets shall promote national traditions, culture, best practices, and legislation regarding waste disposal (the Law on Waste, section 42.2.3).
- A legal entity that failed to immediately disseminate news and information provided by relevant agencies free of charge during a disaster and hazardous phenomena shall be punishable by a fine of 5000 units (the Law on Administrative Offences, section 5.13.3).
- Citizens are prohibited to spread false information misleading others with regard to the prevention, fight, and mitigation of its socioeconomic impact of the epidemic (the Law on Coronavirus (COVID-19) epidemic prevention, fight, and mitigation of its socioeconomic impact, section 12.3).
- Legal entities are prohibited to spread false information misleading others with regard to the epidemic prevention, fight, and mitigation of its socioeconomic impact (the Law on Coronavirus (COVID-19) epidemic prevention, fight, and mitigation of its socioeconomic impact, section 13.3).
- News, information, warning signal and warning announcements about disaster and hazardous phenomena shall be transmitted via the special use of network and communications and media organizations network free of charge regardless of property forms and types; /Law on Disaster Protection, section 16.3/
- To announce a level of disaster threat and current situation, and response measures, to continually, immediately and accessibly provide detailed information to the public through the media / the Law on Disaster Protection, section 26.1.5/
- To disseminate information by mass media or disseminate directly and provide guidance on disaster and hazardous event occurrence and disastrous situations and provide guidance to the population / Law on Disaster Protection, section 29.1.4/
- Media organizations and their workers are obliged to disseminate objective information on the election /Law on Presidential Election, section 41.19/

- To continually disseminate information and promotion on the prevention of torture through media outlets /the Law on National Human Rights Commission, section 33.1.4/

There is no necessity to impose liability on the media to disseminate certain types of information as it may lead in some cases to abuse. For example, independent media outlets may be harassed or even closed if they breach the above-mentioned provisions which are not narrowly defined. In a democratic society, it is exceptional to impose such a liability on the media; yet, the media provide sufficient information in the public interest. Thus, instead of imposing a certain type of duty on the media, it would be more efficient to support media independence and pluralism. On the other hand, government agencies may misuse or overuse the right entrusted to them.

The Committee of Ministers of the Council of Europe has been cautious about imposing state-related news on the news schedule of public service broadcasting organizations. The Committee recommended that the cases in which such organizations might be "compelled to broadcast official messages, declarations or communications, or to report on the acts or decisions of public authorities, or to grant airtime to such authorities, should be confined to exceptional circumstances expressly laid down in laws or regulations."¹⁴

In Mongolia, there are no unjustified legal restrictions on media operations and no major obstacles to the exercise of the journalism profession. Parliamentary reporters and reporters covering court trials are required to hold permits in the form of official cards. According to the revised procedure for media workers to cover elections, approved by the General Election Commission decree no 22 of 2013, the Commission shall issue cards to reporters covering the election. These cards are valid with their work ID cards.

The Law on State of Emergency of 1995 entitled the Government with the power to take control over public broadcaster or suspend its operation until a state of emergency is terminated. This is one example of creating possible risks of media censorship by the state.

Amendments to the Law on Culture section 19 regarding restrictions on operation run by public and other organizations and citizens in the frame of culture were passed on 12 February 2015. Even though the main context

¹⁴ Recommendation No. R (96) 10 of the Committee of Ministers to Member States on the guarantee of the independence of public service broadcasting

of this regulation is associated with the state policy to promote national content, it could facilitate censorship of media and exert pressure. There is an increased risk of misuse or overuse of the above-mentioned provisions by the state, which could be implemented based on decisions taken by state inspectors, without any public participation or oversight.

Content restrictions

Several laws in Mongolia restrict the content of publications and broadcasting. In most cases, the purpose of such laws is to safeguard a legitimate aim. Article 20 of the ICCPR declared, "Any propaganda for war and any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Nonetheless, due to the overly broad or insufficiently clear definition of law provisions, there is a potential risk of misusing or overusing them. Provisions on combating pornography have been reflected in numerous laws. For example:

Intentional display, delivery, advertisement of the press, literature, photo, film, videotapes and other items that advertising pornography to a child, deliberate action that makes a child commit pornography, or suggestion of prostitution or sexual intercourse to a child are prohibited (Criminal Code, section 16.8)

"Advertising pornography" means making explicitly to depict, broadcast or display the act of sexual intercourse or human genitals with the intention to incite sexual desire by publication, books, films, audio and video prints and/or by any other forms (the Law on Combating Pornography and Prostitution Act, section 3.1.1);

Preparation, dissemination, sale, storage of the press, literature, photo, films, videotapes and other items that advertise pornography involving a child are prohibited (the Criminal Code, section 16.9).

It shall be prohibited to promote war, violent conflict, violence and pornography and to undertake cultural activities that are harmful to Mongolia's independence, national security and culture (the Law on Culture, section 19.3).

It shall be prohibited to advertise pornography through press and broadcast media (the Law on Combating Pornography and Prostitution Act, section 5.1);

It shall be prohibited to promote incitement to violence, assassination

and pornography, to display detailed methods of a criminal act, to showcase detailed methods of committing criminal offences, concealing imprints of crimes, to promote criminal offences as a way to increase profits, and to publish or broadcast any information inciting to criminal offences (the Law on the Prevention of Criminal Offences, section 32.6).

During disaster and hazardous phenomena, if not criminally liable, a person who disseminated false information misleading others shall be punished by a fine of 500 units; a legal entity – by a fine of 5000 units (the Law on Administrative Offences, section 5.13.1).

To prevent the spread of false information and the act of misleading others with regard to the epidemic prevention, fight, and mitigation of its socioeconomic impact, the National Police Agency shall collaborate with the Communications Regulatory Commission to adopt a rule for online space regulation and be responsible for oversight of its implementation (the Law on Coronavirus (COVID-19) epidemic prevention, fight, and mitigation of its socioeconomic impact, section 9.13).

It is prohibited to defame honor and reputation of courts and judges or to spread or post comments, illustrations, audio and audiovisual content and other types of news and information in the media and on social networking sites (the Law on Courts, section 50.1.32).

It is prohibited to deliver information to media outlets about cases (the Law on Courts, section 60.1.6).

1.7 OTHER REGULATIONS

Media Ownership and Concentration

The National Security Concept of Mongolia of 2010 newly incorporated a provision on the transparency of ownership and affiliation of media outlets. Enacted on 12 December 2019, section 19.1 of the Law on Broadcasting provided that, "The ownership shall be transparent to ensure the independent, open and ethical broadcasting." Furthermore, section 30.1.2 obligated the CRC to disclose information on ownership of broadcast service providers to the public and take preventive measures against over concentration.

All media outlets shall be mandatorily registered in Mongolia. They must submit their formal requests for registration within ten days after their establishment. Such registration is compatible with the Law on State Registration, the Law on Registration of Legal Entities, Civil Code and other relevant laws and rules. Although media ownership has two basic forms, profit-making and non-profit-making, ownership diversity is not clearly indicated by the laws. There are currently no legal or regulatory frameworks to support community media. The prohibition by the Law on Broadcasting of religious institutions to possess broadcasting service licenses may restrict community media operation. Broadcasting stations can only be registered after their license is granted, in accordance with the Law on License of Business Activity (section 15.16.1). With the enactment of the Law on Broadcasting, the previous licensing requirement on getting permission from local governors prior obtaining a license is invalidated.

The legalization of ownership and concentration of broadcast service providers under the Law on Broadcasting is a significant progress as these issues were previously regulated by procedures. According to the law, CRC is obligated to disclose information on ownership of broadcast service providers to the public and take measures to prevent over-concentration of ownership. Moreover, section 7.4.3 prohibits overlapping licenses of terrestrial radio and television transmission service, and multi-channel distribution service license with radio and television service license, thereby ensuring separate ownership. Due to a lack of transparency on media ownership and concealment of sales information and customers' rate in the market, it becomes difficult to define a concentration in a realistic way.

The Law on Investment enacted in 2013 administers investment by a foreign government-owned legal entity that deals with business in the media,

information and communication sector, stating that such legal entities hold 33 per cent or more percentage of total shares issued by legal entities of Mongolia shall get permission (section 21.1.3). Although state ownership is prohibited under the Media Freedom Law, in recent years numerous media outlets, including TV stations and newspapers are established under local governments to promote their activities and policies in violation of the law. All state-owned media outlets are operated mainly to promote the policy of such state agencies. Non-transparent media ownership and media concentration encourage editorial censorship, which in turn can lead to the violation of media freedom, suppression of pluralism and the decline in the quality of journalism.

The media market is not well established in the country. Instead of running a fair competition for advertising revenue, it is claimed that media organizations often serve business and political interests. There is a lack of specific legislation on media ownership transparency and media concentration. According to a survey on media ownership¹⁵ undertaken by the Press Institute of Mongolia and Reporters without Borders (RSF) in 2016, the majority of media outlets or 74 per cent which are the most popular among the audience are owned by politicians, public officials, or business groups with political ties. Furthermore, owners or investors of 29 out of 39 media outlets in some ways depend on politics.

CONTRACT OF SILENCE OR NON-DISCLOSURE AGREEMENT

One of the numerous hidden issues around the Mongolian media sector is editorial censorship. Previous surveys indicate that there is either contract of silence or a black list of forbidden topics in their newsrooms, as 40 per cent of the respondents agreed. Moreover, a survey on the safety of journalists among 300 media workers indicates that 52 per cent of them have encountered censorship of publications or attempts to ban broadcast programs.

This indicates that one of the most pressing issues of press freedom is the contract of silence. However, there is no specific contract of silence and only one provision in the agreement of cooperation contains such a meaning, or more specifically, a provision which states that “a media outlet is obliged

¹⁵ <http://mongolia.mom-rsf.org/en/>

to not disseminate negative news and information about customers” can be referred as the contract of silence.

Such type of contract signed by media outlets contradicts with principles of balanced reporting, media independence, freedom and pluralism. The Parliamentary election law for the first time prohibits signing the contract of silence in section 48.7 which provides that “Any media outlet is prohibited to make a promise or sign a contract to publish solely or not to publish news and information on either one party, coalition or a candidate in the course of an election campaign.” In case of breach of the provision, a person may be punished by a fine of 20 million MNT (approx. US\$ 7.613), and a legal entity – by a fine of 200 million MNT (approx. US\$ 76.133) by Administrative offences law, section 17.1.19. However, this provision is valid only during the elections.

Signing the contract of silence could lead to economic censorship. There are cases that media managers ban any negative news and information about customers or edit these kinds of materials prepared by journalists in favor of the customers. Thus, the contract of silence has a pronounced negative effect on editorial independence and hinders the professional work of journalists.

The Media Freedom Law prohibits all types of censorship by stating in section 3.1 that “The State shall not control or censor the content of public information.” The contract of silence signed by government agencies with some media organizations may involve government censorship as well as hinder public interest journalism. The media should serve the public’s right to know and report in a fair, balanced and independent manner. Thus, the media has no right to report one-sided and biased news.

INTERNET AND ONLINE SPACE

There is no state regulation to limit internet users in Mongolia to access any domestic and foreign websites and to join social networking sites. Although, heads of the National Police Agency and the Communications Regulatory Commission issued a joint order A/200 and A/169 on 27 August 2020 to regulate online space with the aim to prevent the spread of disinformation on the COVID-19 pandemic. According to the regulation, allegedly false information and misleading information during the pandemic shall be removed or those website service providers who disseminate such types of information shall be temporarily restricted until the end of the pandemic.

On 11 November 2020 with regard to the regulation, CRC has delivered an official letter No.04/1981 to 290 website service providers warning them to abide by the regulation. Grounds for such restrictions imposed on freedom of expression are not legitimate for the necessity to protect the public's health during the pandemic. In addition, the CRC delivered a recommendation to 134 website service providers on the same day to disable users' comments for COVID-related official information and data, in accordance with Government's direction issued on 10 March 2020. Section 4.1.1 of the regulation provides that "within restrictive measures against online space that misleads others and spreads false information, a representative shall be appointed to collaborate and his/her full name, position, mobile and fixed phone numbers, and emailing address shall be registered at the Communications Regulatory Commission." This contradicts with the Media Freedom Law which provides that "the State shall not control or censor the content of public information" and "[it] is prohibited to adopt any law, which limits freedom of media and independence of media outlets."

Registration or licensing of journalists contradicts international human rights standards. As the UN Human Rights Committee defined in 2011, "Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3. Limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events. Such schemes should be applied in a manner that is non-discriminatory and compatible with article 19 and other provisions of the Covenant, based on objective criteria and taking into

account that journalism is a function shared by a wide range of actors.”¹⁶

With regard to COVID-19 response measures, quarantine accommodation provided by the state lacked quality internet access or had no internet connection. Therefore, temporarily isolated people were restricted access to information, lost connection with family members and friends, or denied e-learning opportunities. For example, there were complaints that some isolated people were restricted their right to know as rooms in a quarantine accommodation had no TV or radio, and internet speed was, as the 20th Status Report on Human Rights and Freedoms of Mongolia mentioned.

During elections, online space is regulated by the Election Laws. Particularly, CRC shall take control over the implementation of sections 46.13, 46.19, 47.1.1, 47.1.3 and 47.3. Moreover, the agency is entitled with power to oversee sections 3.1, 2.2 and 7.3 of the “Procedure on conducting election campaign using online platforms and supervise thereon.” During the Parliamentary election held in 2020, out of total of 325 notices made by authorized public bodies, 224 were from the National Police Agency, 67 from the Authority for Fair Competition and Customers’ Rights, 19 from the General Intelligence Agency and 15 were from other organizations. These notices were delivered to relevant mobile network operators and website service providers, and appropriate measures were taken based on 138 notices.

MEDIA SELF-REGULATION

Media Council of Mongolia (MCM), an inaugural self-regulatory body was set up on 28 January 2015. MCM's board consisted of 15 members. Two complaints committees, the Radio and television media ethics committee, and the Print and online media ethics committee are operating under the MCM each of which has also 15 members. On a daily basis, MCM is administered by an executive director and secretariat.

In recent years, MCM has expanded its activities, which is evidenced by a growth in the number of complaints filed to the MCM by individuals and legal entities. While in 2015, a total of 19 complaints on ethical issues addressed to the media and journalists were resolved, in 2018 it was 100 and in 2019 this

¹⁶ Human Rights Committee, General comment No. 34. Article 19: Freedoms of opinion and expression, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

number has reached 106. In 2020, MCM has received 52 complaints which were resolved by the ethics committees. Since its establishment, MCM has handled 404 complaints in total (by 13 April 2021). An increase in the number of individuals who approach MCM indicates that the media self-regulation body has been recognized in society.

MCM is a public benefit, not-for-profit NGO. Based on operational and complaints procedure, and the Code of Media Ethics, MCM reviews complaints concerning the Code of Media Ethics and make a conclusion whether the Code has been breached.

The status of handling complaints by MCM:

The majority of 52 complaints received by the Media Council in 2020 or 81 per cent were addressed to the Print and online media ethics committee. According to provision 2.3 of the Complaints Procedure, complaints addressed to 23 newsrooms were rejected by MCM's Secretariat on the grounds of late submission or incomplete supporting documents. Nine complaints were withdrawn by the complainants themselves. Both ethics committees have discussed complaints concerning 22 contents addressed to 19 media outlets during six hearings, and have made the following conclusion based on provision 6.3 of the Complaints Procedure.

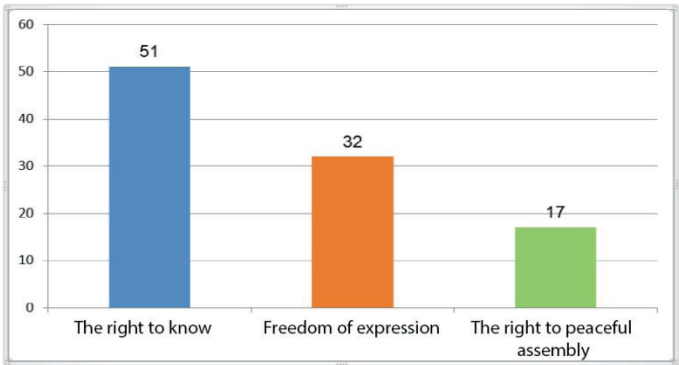
- According to section 6.3.1 of the Complaints Procedure, it is publicly announced that 7 media outlets did not breach the Code.
- According to section 6.3.2 of the Complaints Procedure, it is publicly announced that 3 media outlets made corrections and apologized concerning their content, without referring to the media outlets.
- According to section 6.3.3 of the Complaints Procedure, it is publicly announced that 9 media outlets violated the Code of Media Ethics with referring to the media outlets.

TWO

CURRENT STATUS OF FREEDOM OF EXPRESSION

With the support of the Open Society Forum, the Globe International Center monitored violations of civil and political rights, namely the freedom of expression, the right to know, the right to association, and the right to peaceful assembly, during the period of a high-level and all-out regime preparedness in response to the of the COVID-19 pandemic, between January 27, 2020, and February 25, 2021. During this monitoring period, 76 violations of civil and political rights were registered in a duplicate number. More than half of these violations, or 51 percent, were violations of the right to know and/or the right to receive, disseminate and process information while 32 percent were violations of the freedom of expression, and 17 percent were violations of the right to association and the right to peaceful assembly.

Figure 1. Percentage of types of civil and political rights violations



It can be concluded that during the COVID-19 pandemic, officials commonly committed serious violations of freedom of expression and the right to information. If citizens did not report and/or object to this type of violation, there is a risk that this situation will go underground, thereby becoming a commonplace. The reason for the high occurrences of such violations is the lack of legal guarantees to protect freedom of expression and the right to know during the COVID-19 pandemic, as well as the lack of

effective mechanisms to prevent such violations.

Example 1. Violation of freedom of expression

The paragraph 1 of section 5.13, or “Violation of the Law on Disaster Protection,” of the Law on Administrative Offences, states that “misleading the public, disseminating disinformation and misinformation in the events of a disaster, catastrophe, infectious disease, accident and danger shall be fined in tugriks equal to five hundred units if it is not criminally liable. A legal entity shall be fined in tugriks equal to five thousand units and a legal entity shall be fined in tugriks equal to five thousand tugriks.” The application of the above regulation does not take into account whether the Government of Mongolia and the competent authorities have provided information in a way that is accessible to all as well as in a complete and unambiguous manner. In addition, there is neither common understanding nor legal framework on how to use the criteria of “misleading the public” and “obviously false” in the above regulation, which leads to the arbitrary and different use of the right to freedom of expression from the sides of officials.

Example 2. Violation of the right to information

Officials of the Emergency Commission (State Emergency Commission, Capital City Emergency Commission) did not provide information that should be public and is not confidential to citizens who were willing to travel for good reasons, making the wait for eight days as well as were slow in response by changing their contact numbers and e-mail addresses which had become obsolete. Also, governmental organizations and their servants failed to update their email and contact information in a timely manner, and there was the lack of unified information, all of which directly violated the constitutional right of citizens, namely, right to know, leading to damage to citizens' health and other difficulties due to the failure to provide information in a complete and clear way in a timely manner. For example, a tragic accident, namely a loss of a life, occurred in the Emeelt checkpoint where a patient from Arkhangai province came but could not receive medical assistant due to the fact that there was no provision of information on how to admit a citizen with good health reasons and how to prepare the citizen, and that the officials did not exchange information.

Therefore, during the COVID-19 pandemic, it is necessary to create a comprehensive legal guarantee to prevent the violation of the right to free expression and the right to know that might occur due to the actions of government organizations and officials, and to ensure that decisions and actions of organizations and officials do not violate human rights. If this is not taken into account, it is necessary to increase the effectiveness of regulations that invalidate decisions and actions and improve state and civil society oversight. To this end, government officials should be provided with comprehensive human rights training during the pandemic; to conduct a comprehensive study prior to making the relevant decision, and to provide appropriate time for the decision to be based only on actual calculations and research; mandatory issuance of recommendations and instructions by higher authorities and officials for the implementation of decisions made during the pandemic on the field by field officials; a mechanism should be established for the NHRC to review the decision before it is made, not after it has been made.

As recommended by international organizations such as UNESCO, in order to prevent arbitrary arrests and detentions by law enforcement officers during the pandemic, it is important for journalists and media actors who publish reliable information in the public interest to be aware of, and knowledgeable of, issues such as privacy and freedom of expression that others necessitate. In addition, within its judiciary framework, especially judges should pay special attention to international human rights standards that guarantee freedom of expression and the inviolability of the human person in dealing with cases of dis/misinformation.

During the pandemic, besides the GIC, other professional organizations conducted research on the state of press freedom. For example, in December 2020, the Media Council conducted a survey titled Press Freedom in the Transition to Public Readiness, among 300 journalists. According to the survey, two-thirds of the participants, or approximately 60 percent, found that the maintaining of balance of resources was difficult. When asked whether there was any pressure from the government side, 75 percent of those surveyed acknowledged it, while 59 percent agreed that press freedom had been curtailed since the transition to public readiness.

According to a survey conducted among 81 journalists and/or media workers by the Working Group under the supervision of the National Human Rights Commission of Mongolia, the majority of respondents rated the situation with media freedom in Mongolia as “moderate”. The survey also highlighted that there were a number of obstacles to media freedom and

the professional work of journalists. 95 percent of respondents said they had difficulty accessing information, with 61.7 percent saying it was the most difficult to obtain information related to the state budget and finances, and 48.1 percent replied it was about state and local property. Government or civil service bureaucracy is the biggest obstacle, while civil service's being not open to public, its uncertainty, its secrecy, and its contract of silence or non-disclosure agreement also pose obstacles. On the other hand, organizations that refused to provide information or ignored were "disagreed with by the head" (53.7%), "private secrets of individuals, state secrets or organizational secrets" (43.9%), and "lacked authority to provide this information" (40, 2%) and so on. 85 percent responded that they had some difficulty in retrieving and disseminating information, and its frequency was 14.8% daily, sometimes 58%, and rarely 13.6%. In addition, 81.5% of respondents were required by the authorities to disclose their sources of information.

While raising issues such as their independence and/or security, thereby asking whether they were pressured in any way, only 8.8% of the 80 respondents said they did not feel pressured to do so. Only 3.7 percent of the respondents said media outlets' founders, owners, and investors did not participate in their daily professional undertakings. Finally, respondents found that journalists working in the investigative media (69.5%), political (28%), and news (13.4%) tend to be most at risk.

Another highlight of the last year was a dispute between MNB workers, the organization's National Council and Board of Directors. The Law on Public Radio and Television states that the MNB is "a non-profit legal entity that serves only the public interest, is accountable to it, and operates under its control". However, it is generally accepted that the appointment of the management of the so-called public MNB is not based on public participation and is conducted under political influence. The MNB's collective council and trade union have been protesting the situation since September 2020, expressing their views on the election of the director general and members of the national council. In doing so, more than 500 representatives of creative workers and journalists at the MNB demanded that the entire governing body resign as a full-fledged governing body for serious violations of workers' rights, spying on artists, loss of editorial independence, misappropriation of public funds, and influence by political interference. They repeatedly expressed their views in the form of letters, demands, official letters, and rallies to the authorities.

The NHRC monitored and investigated complaints of violations of labor and professional rights of journalists/artists and provided requirements and

recommendations to relevant parties. The Human Rights NGOs Forum of Mongolia, led by our organization, has repeatedly stated its position on the situation of the MNB and called on the organization's National Council, the Parliamentary Standing Committee on State Structure, the Prime Minister, the President, and the Speaker of the Parliament to retain its independence, thereby providing requirements and recommendations. In particular, the Forum of Human Rights NGOs protested against the appointment of the highest governing body of the MNB, which is expected to be independent, pluralistic and transparent, said that the hasty discussion of the introduction of a state of emergency and strict curfew was negligent and irresponsible because it ignored the provision of section 21.4 of the Law on Public Radio and Television "... appointing a citizen nominated by a civil society representative", as candidates could not speak or comment in accordance with the general principles set forth in section 4 of the Law on Legislation during the meeting of the Standing Committee on State Structure of the State Great Khural (Parliament) on December 9, 2020 when discussed the nominees for the position of the outgoing member of the State Great Khural (Parliament). Shortly after the protests, the decision that ignored the issue escalated the form of the struggle, thereby resulting in demonstrations, rallies, and the event of use of force.

When appointment members of the MNB National Council, there is a necessity to be made in a transparent and open manner, as proposed by civil society representatives as well as organizing hearings in accordance with section 10 of the Law on Public Hearings. Due to the lack of regulation in this sector, there is an urgent need to revise and approve the Law on Public Radio and Television in accordance with the Law on Legislation as well as with the contribution of citizen participation.

Globe International Center highlights the following violations of journalists' freedom of expression

Globe International Center provided free legal advice to a total of 31 citizens, journalists, and/or media professionals between 2020 and 2021. Of them, 4 clients were from rural areas whereas 27 were based in Ulaanbaatar. If classify the legal service by its type, the majority of violations is accounted for violations investigated by the police in connection with the preparation of news and information during the pandemic in accordance with the Law on Administrative Offence and the Criminal Code.

Violations 1. A journalist is fined on the grounds that there was an organization of an illegal demonstration.

On December 10, 2020, MNB journalist P and members of the broadcast media outlet's temporary council protested the appointment of the director general of the MNB and members of its National Council, thereby organizing themselves in a peaceful manner. However, a number of individuals were forcibly removed by the Chingeltei District Second Police Department and were detained. Subsequently, on 10 February 2021, a fine of MNT 100,000 was imposed to him according to the section 5.8.1 of the Law on Administrative Offence for breaching the rules for organizing demonstrations and rallies. However, this provision carries a fine of MNT 150,000. In this case, police officials did not comply with the clause, or the statement as the legal basis that any demonstration should be complied with, stating if demonstration and rallies are not dispersed within two hours after notice was given then the authorities are to forcibly disperse that demonstration or assembly. Some rights are being violated due to the fact that the Laws on the COVID-19 pandemic and Disaster Protection do not regulate detailed relations related to the protection of fundamental civil rights during all-out regime preparedness.

Violation 2. A lawsuit was filed in the Civil Court alleging that a journalist had damaged one's honor and reputation.

Journalist U at zarig.mn website prepared a news on the issue of "Monpolymet" LLC's closing its debt of 10 billion MNT that was lent from the contingency fund of the Bank of Mongolia. On June 29, 2020, the Khan-Uul District Court of First Instance initiated a civil case against former MP G. The plaintiff filed a claim in connection with a total of 138 news and posts posted on Zarig.mn and its journalist's personal website between 2019 and 2020. There have been no previous cases in which more than 100 news and posts have been sued under the section 21 of the Civil Code for defamation of honor, reputation or business reputation. The verdict has not yet been finalized and the trial has been postponed for the ninth time.

Violation 3. He was fined under the Violation Law and charged under the Criminal Code for expressing his views and blowing a “whistle”.

Citizen M was diagnosed with coronavirus during his isolation at Enkhsaran sanatorium, which was confirmed by his fourth test. The next day, on November 10, 2020, the citizen warned the public through his social media account that the sanatorium had a poor infection control regime, inadequate sanitation, and a risk of mouse-borne infections. One day later of this warning, the Government of Mongolia approved the Resolution No. 178, thereby resulting in all-out regime preparedness across the country. On January 18, 2021, an authorized official of the Violation Investigation Division of the National Police Agency imposed a fine on M. under the section 5.13.1 of the Law on Violations. Disagreeing with the fine, GIC did lodge an appeal with the Khan-Uul District Criminal Court, but no date has been set yet. Also, on March 24, 2021, the Khan-Uul District Prosecutor's Office opened a criminal case against citizen M under the section 15.6.1 of the Criminal Code, “Creating conditions for infecting or spreading infectious diseases that may endanger the lives of others”. The GIC has been providing free legal assistance in these cases.

Violations 4. During the pandemic, government agencies did not disseminate accurate information

The Local Administration Office of Uvs Province posted news on the pandemic on its website, which was deleted 30 minutes later. Provincial journalist E, who shared the information, was attacked on the phone, and asked to delete the news. In this case, a legal entity may be liable for the crime of “spreading false information” in accordance with the clause 13.14 of the Criminal Code. In addition, a legal entity that disseminates false information is liable to a fine of 5 million MNT under the section 5.13.1 of the Law on Administrative Offence. GIC drafted a complaint letter addressed to the police, thereby providing it to the journalist. This is a common problem that both central and local journalists face during this period of the pandemic. However, section 7.1.11 of the COVID-19 Law states that it is the duty of the Government to provide citizens with regular, prompt, and accessible information in ways that can prevent, fight and protect their health from the pandemic.

Violation 5. Journalists were asked by the police to disclose their confidential source.

The editorial office in where journalist A from Arkhangai province works received an official letter from the provincial Police Department stating, “Please send information about the officers who published the news as it is urgent, thereby collaborating immediately.” Also, an official letter requesting disclosure of the source was sent to Zarig.mn by the Public Order and Public Security Service Department of the National Police Agency on September 17, 2020. This suggests that coercion to disclose sources remains common and that there is an increasing demand from the authorities in the name of co-operation. However, section 34.2 of the Law on Public Radio and Television states that “Employee of the public radio and television shall be entitled to keep confidentiality of the information source except in those circumstances of preventing from crime or the Court considered that the public interest had been affected and revealed.” It is unreasonable to discriminate against journalists by their being affiliated to a media outlet and to apply only to public radio and television staff, and this is the right granted to all journalists by the case law. As stated in the section 8 of the Code of Media Ethics that “information sources should be protected strictly”, it is a mandatory ethical duty of a journalist and coercion of sources should never be allowed.

Violation 6. Infringed on the right of local journalists to receive and disseminate information.

In Orkhon province, there was a serious violation of the professional right of journalists to obtain accurate information from reliable sources and disseminate it to the public. Journalists and media outlets in this province face difficulties in performing their professional duties on a daily basis. For example, the Provincial Governor's office refuses to provide relevant information about meetings, unreasonably restricts journalists' right to seek, obtain, and disseminate information, obstructs local media outlets and journalists, and provides information to journalists only if they have a contract. In this way, the professional activities of journalists continue to be hampered, such as the refusal from the provincial governor's office to provide information in the event of failure to have a contract with them. There were also violations such as not disclosing its financial information and glass account information that are committed by its officials during the transition to, and during, all-out regime preparedness. GIC sent a letter to the Provincial Governor urging him to fulfill his duty to provide to citizens and legal entities information that is not prohibited by the Law on Information Transparency and the Right to Information, and not to interfere in, and pose obstacles to, the professional activities of journalists.

THREE

CIVIL AND CRIMINAL DEFAMATION CASES AGAINST JOURNALISTS AND MEDIA ORGANISATIONS

In 2020, there were 106 civic court cases related to damage to the honor, reputation, business reputation and non-pecuniary damage. This is the highest figure since 1999, when our organization started registering this type of cases. Due to amendments to the Criminal Code on January 10, 2020, under its section 13.14 “dissemination of false information” is considered as a crime. In 2020, 17 cases of spreading false information were finally resolved by the courts. About half of these, or eight cases, were based on petitions and complaints from high-ranking political officials, members of parliament, civil servants, and/or government agencies.

Table 1. Comparative studies of defamation cases for 1999-2020

Year	Civil cases		Criminal Cases	
	Total cases	Related to media outlets	Total cases	Related to media outlets
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
2012	43	20	8	4
2013	37	17	9	3
2014	45	20	12	9
2015	37	10	14	5
2016	47	12	9	1
2017	49	12	5	0
2018	69	19	0	0
2019	36	11	1	0
2020	106	14*	17	1
Total	972	432	105	39

* An official letter from the Judicial General Council stated that there is no statistical data on journalists and media outlets if classify out of a total of 106 cases resolved.

Shuukh.mn, an open electronic database, had posted 24 court decisions of first instance, 18 of appellate instance, 5 of review, and a total of 47 court decisions related to non-pecuniary damage, defamation, and/or business reputation. The number of cases resolved in relation to media outlets and/or journalists is 14 or about 30 percent.

One in 17 cases involving the dissemination of false information resulted in the imposition of a fine on a journalist, while the media was not punished on its own. In criminal cases, the maximum fine imposed to them by the court was MNT 1.3 million. Also, during the investigation, those journalists were remanded in custody for 53 days. Yet, they were fined by MNT 505,000 with the total period of their being detained decreased in accordance with Paragraph 1.2, section 6.10, of the General Part of the Criminal Code. With regard to the crime of dissemination of false information, 37.5% of the plaintiffs in court cases are high-ranking government officials, civil servants or government agencies. In 2020, plaintiffs demanded an average of MNT 4.3 million in non-pecuniary damages against journalists and media outlets. A company owned by a well-known politician claimed MNT 1 billion in damages for non-pecuniary damage against a media outlet, but no trial has been scheduled yet.

Between 1990 and 2020, 43.7% of the 1,079 civil and criminal cases

decided by the courts related to damage to the honor, reputation, business reputation, to defamation, as well as to the dissemination of blatantly false information were addressed to journalists and/or media outlets.

Note: The reason why there is no registration on criminal cases related to journalists and/or media outlets in 2017 and 2018 is that the revised version of the Criminal Code came into force on July 1, 2017, and defamation thereby has become considered no longer a crime.

Recommendations of the UN Human Rights Council to Mongolia on the implementation of freedom of expression (UPR)

The Universal Periodic Review (UPR) is a unique UN mechanism. Under this mechanism, the UN General Assembly conducts a "regular review of the human rights situation" every 4.5 years to review the human rights situation in each of its 193 member states and the implementation of their obligations under international human rights treaties to which they are parties.

Accordingly, Mongolia presented its first national report on the human rights situation in 2010, its second report in 2015, and its third report on November 4, 2020, at the UN Human Rights Council Working Group.

With the multiple stakeholders' participation, the Globe International Center prepared a report on the implementation of freedom of expression at the 2015 and 2020 forums and submitted it as part of the report of the Mongolian Human Rights NGO Forum. In 2015, the UN Human Rights Council called on the Government of Mongolia to ensure the full right to freedom of expression as well as its full expressing opportunities:

- Bring national legislation on freedom of expression into line with international human rights standards,
- Ensuring the independence of the broadcasting regulatory body,
- Abolish defamation clauses of the Criminal Code, refrain from using them for the purpose of suppressing criticism, and resolve civil defamation cases in accordance with international human rights standards,
- Create conditions for the protection of journalists' sources of information and whistleblowers,
- Ensuring freedom of expression, including the Internet,
- Respect the principles of "legality", "necessity" and "proportionality" in any restriction of the right to express one's opinion,
- Ensuring the safety of journalists and media workers,
- Providing protective environment for journalists and/or media outlets from pressure and spy after reporting on and criticizing the activities of the authorities.

Unfortunately, the Government of Mongolia did not take any significant steps to implement these recommendations, thereby seeing the third discussion being held.

On November 4, 2020, the 36th session of the UN Human Rights Council reviewed the human rights situation in Mongolia for the third time. The conference was scheduled for May 4-15, 2020, but it was postponed due to the global outbreak of COVID-19. At the conference, the Human Rights Council made the following recommendations for the full implementation of freedom of expression in Mongolia:

- Ensure that journalists, media workers and civil society activists are able to practise their activities freely without any fear of punishment, in accordance with international standards, including by decriminalizing defamation - 69 (Estonia),
- Protect freedom of expression by abolishing section 6.21 of the Law on Administrative Offences - 70 (UK);
- Ensure independent investigations of attacks against journalists and media workers, with those identified as responsible being prosecuted - 71 (Australia);
- Adopt and implement legislation that protects human rights defenders and civil society organizations from threats, intimidation and harassment, and investigate attacks against journalists and media workers and bring perpetrators to justice - 72 (Czech Republic);
- Protect human rights defenders by strengthening and adopting the draft law on human rights defenders in line with the recommendations by the Special Rapporteur on the situation of human rights defenders - 78 (Germany);
- Exercise the necessary efforts to ensure the integrity and transparency of the judiciary, hold those involved in torture to account and lift restrictions imposed on the media and on Internet use - 88 (Egypt).

Monitoring of Civil and Political Rights Violations during the COVID-19 Pandemic (Globe International Center) / 2020 Nov 20 – 2021 Feb 25/

The Purpose of Monitoring:

To document and monitor civil and political rights violations during the three-month period of responses to the COVID-19 pandemic, such as strict lockdown and/or all-out regime preparedness and its associated strict/semi-strict lockdown measures within three months.

Data collection method:

Data collection saw several methods and/or ways; we filtered not only the most accessible and regularly functioning 20 websites, but also social networks such as Facebook and Twitter. Also, we sent letters to media managers and/or editors asking to report any violations they witness, or letters entitled to them from public or local media outlets that informed any violations. In addition to this, we contacted journalists by telephone and requested information from government agencies, such as National Human Rights Commission (NHRC) and conducted public opinion polls using Google docs.

Registered Violations

Within the period of three months of monitoring, 79 violations of civil and political rights were registered in duplicate numbers. If classify registered violations by sources, there were a total of 43 violations registered from websites and/or social networks while we have identified 24 violations thank to the Google form survey. If four violations were registered with the NHRC eight ones listed after phone calls with media outlets and/or journalists. If categorize these abuses thematically, 48 percent of the violations were the right to know, the right to receive, disseminate and process information whereas 30 percent were the right to freedom of expression. Moreover, 17 percent accounted for the violation of the right of association and the right of peaceful assembly, and the remaining 5 percent was violations to the freedom of thought, belief and religion.

If to classify the violations of the freedom of expression, these violations emerge.

- Cases of celebrities of young generation who had been banned from posting comments on their own social media pages,
- Criminal cases against a number of citizens and journalists filed by the Minister of Justice and Home Affairs.
- Cases of fines and intimidation against citizens who expressed their views online through their Facebook pages.
- A case in the form of a notice from the Communication Regulatory Commission in which it required media outlets to be unable to comment by users on information and/or news related to coronavirus infections and outbreaks on their websites, that not to publish personal information on their websites, or that it would take measures such as restricting their access to the Internet from Mongolia, if published.
- A case of forbidden to form group chats for individuals who were in isolation

If to classify the violations of the information restricting the right to know and the right to receive, disseminate and process information by content of given information/news, follows arise:

- There were many cases when citizens could not reach someone who can help them when called to government emergency numbers 103 and 119 in order to receive medical care due to their being passed to another medical staff, or those at the hotline did not answer the phone on a timely manner. This has resulted in delays in accessing emergency medical assistance as well as difficulties in getting services other than coronavirus-related accessed.
- A case of a requirement from media outlets to carry a QR code taking from the authorized organization or setting quotas for QR codes without any justification and/or explanation by that authorized organization.
- A case of restricting the number of journalists accessing information from the Ministry of Health.
- Cases of loss of life and health due to incomprehensiveness of information provided by government agencies and/or organizations as well as no close collaboration between governmental agencies/organizations.

- Notice that government agencies will not provide services to citizens who have not undergone PCR.
- A case of requirement to disseminate information provided and prepared only by official sources.
- Government Resolution No. 29 dated to February 10, 2021, which regulates the dissemination of information through a single channel.
- Cases of increased pressure and burden among local media outlets and journalists to perform their professional duties.

If classify violations that restricted the right of association and the right of peaceful assembly, it may be summarized as follows:

- A case of violation of restricting voluntary associations, and peaceful demonstrations and rallies, of citizens.
- Protests against the decision of the National Council of the Mongolian National Public Radio and Television (MNB) regarding the appointment of the director general of the MNB were restricted without any justification or legal explanation, and the journalist was deported and testified.

During the monitoring period, between January 27, 2020 and February 25, 2021, data from 20 websites was collected to file violations if recorded and/or reported. The websites to monitor were selected based on two criteria, namely the most visited websites and website with increased accessing, which, are determined by the website, www.alexa.com/topsites/countries/MN, showing the accessibility of a website's users. Of 20 websites, the selected 13 were the most visited while the remaining seven ones were named with an increase in accessing to their websites.

- Phone calls were made to more than 50 journalists from local and Ulaanbaatar-based media outlets to clarify whether they had faced any difficulties, obstacles and/or violations of their rights while carrying out their professional duties. If it was normal for journalists based in Ulaanbaatar, local journalists faced a number of difficulties. For example, journalists operating in Gobi-Altai, Orkhon, Khovd, Uvs and Tuv provinces revealed that they confronted difficulties in processing and disseminating information. It was mainly attributed to the fact that their local government officials were taking measures, such as censoring information to make publicly known, requiring deleting publicized information/news, and/or imposing fines on their publishing. In some cases, there was a requirement that some

information should be made publicly known only after publicized by a government agency.

- **A rapid survey on violations utilized Google Forms:**

The Google-doc based survey was conducted by sending a link of the survey form to e-mail addresses of approximately 100 local and Ulaanbaatar journalists as well as posting the link openly on Facebook. As of February 25, 2021, 24 people had completed the survey, including 19 journalists, three ordinary citizens, and one civil society representative. A total of 17 respondents said there were violations, whereas the remaining seven responded that there were no violations. 46 percent of the respondents were from local communities while 54 percent from Ulaanbaatar. 16 people surveyed responded that there were eight violations of the freedom of expression and 16 violations of the right to know and/or the right to access to, and disseminate, information, in duplicate numbers. According to the survey, 25 percent of the reported violations were committed by government officials, with 21 percent coming from officials of the National Emergency Commission, 12 percent by the provincial Emergency Commission, as well as eight percent by police officers.

GIC responses to the above-mentioned violations of civil and political rights:

1. An urgent plea was made to the Government of Mongolia and the State Emergency Commission.
2. Prompt notification was sent to international organizations such as IFEX, Forum Asia, GFMD regarding its making the plea to the Government of Mongolia and the State Emergency Commission.
3. Requested detailed information regarding the information published on the website of the Prosecutor General's Office of Mongolia on November 23, 2020, in which it informed that the number of violations of the Disaster Protection Law has tripled since the transfer to the High Disaster Preparedness and Public Readiness, receiving their response on December 2, 2020.
4. On December 26, 2020, GIC, together with other members of the Human Rights Forum, sent a letter to the MNB's National Council requesting that the appointing of the institution's director general be free from political influence.
5. On December 11, 2020, GIC, together with other members of the

Human Rights Forum, issued an appeal to the President, the Prime Minister, and members of the Parliament regarding the management issue of the MNB, initiated by its artists.

6. On December 1, 2020, an official letter was sent to 32 media outlets requesting information on whether there was any form of harassment, intimidation or surveillance against media outlets or journalists while undertaking their professional duties. In addition, information/data was collected by telephone call from all media outlets to which GIC sent letters.
7. On December 1, 2021, an official letter was sent to the NHRCM regarding the exchange of information on violations.
8. On December 14, 2020, a letter was sent to the Governor of the Orkhon Province urging him to comply with the LITRI and to respect the professional rights of the province's journalists.
9. On December 24, 2021, together with other members of the Human Rights Forum, GIC sent an official letter to the Minister of Justice and Home Affairs on three key concerns. **First**, the Ministry of Justice and Home Affairs should not restrict citizen's rights to express their opinions and the right to know. **Second**, it should not interfere with exercising of rights of people in accordance with international norms and the Constitution of Mongolia and other relevant laws. **Third**, the Ministry should fulfill its international promises and obligations.

Conclusion

Analysis on civil and political rights violations during the period of high-level and all-out regime preparedness and public readiness in response to the COVID-19 pandemic has led to the following conclusions.

- Violations were committed by public authorities, which is alarming. The reason for this is that, as we view, these officials do not fully understand and/or study the requirements of the law, namely the clauses about how to restrict human rights in the most minimal way and how to be realistic, in their decisions and actions during this pandemic. As the pandemic situation is likely to continue, public officials at all levels should take comprehensive action to build/develop knowledge, skills and behaviors that prevent violations of fundamental human rights and freedoms guaranteed by international treaties and domestic law. It is also unclear whether the State Emergency Commission had responded to repeated recommendations and demands from the NHRCM on this issue, thereby indicating the need to improve human rights mechanisms during the pandemic.
- Prohibiting and/or restricting demonstrations and rallies on the grounds of “protecting the health of the population” by taking advantage of the pandemic is a violation of fundamental human rights. Citizens should be able to assemble peacefully if they adhere to the infection control regime, without restricting the population from expressing their views, on the grounds of ‘not creating centralization of population’.
- The government had failed to adequately provide accurate information in a timely and accessible manner and/or access to reliable and accurate information, leading to direct violations of fundamental human rights and freedoms.
- The fact that any order, decision, or ordinance issued by a ruling authority is not based on the law and is not registered in the administrative normative act, but is obligatory for universal observance, poses a risk of violation of fundamental human rights and freedoms.

