

Submitted by Globe International

February 19, 2010, Ulaanbaatar

DEFAMATION AND CENSORSHIP

FINAL REPORT

Chingeltei duureg. Khoroo No 6, Diplomat 95
Complex, Entrance No1, # 6, Ulaanbaatar, Zip
code: 15141, Mongolia Mailing address:
211238, P .O.B 102, Tel: 324627, fax: 315326,
e-mail: globenews@globeinter.org.mn,
globe@magicnet.mn

Defamation and Censorship

FINAL REPORT

Title

1. Introduction.....	3
2. Project Objectives and Results.....	3
3. Project Activities.....	4
4. Project Performance.....	9
5. Project Publicity.....	10



Defamation and Censorship

FINAL REPORT

Globe International, a Mongolian NGO has completed the project “Defamation and Censorship” under the US Embassy grant. The project implemented from October 1, 2009 to February 15, 2010.

1. Introduction

Main goal of the project was to contribute to the dispensation of justice and democratization in Mongolia by protecting the rights of journalists to practice their profession.

The project activities carried out by a Research team consisted from 4 members:

Kh. Naranjargal, team leader
G.Davaakhuu, lawyer
Kh.Narantsetseg, researcher
J.Enkhtuul, team secretary

The survey among journalists was assisted by provincial journalists- representatives of Globe International. The project cooperated with Gal productions on audio handbook production.

The project budget was 3,000USD and the actual expenditure is 3005.92 USD, The detailed financial report is attached to this report. *Attachment No 1*

2. Project Objectives and Results:

Objective 1: To conduct analysis on the court cases of defamation against media and journalists

Results:

- Report on nation-wide analysis on 45 court cases of civil and criminal defamation against media and journalists available and presented to the seminar and posted at Globe International website. The results show that public figures of Mongolia effectively use defamatory legislation against media and journalists. 62.5% of plaintiffs of criminal defamation cases and 65% of civil defamation claimants were politicians, authorities and public officials. . **English summary is in the Project Activities.**
- Report on nation-wide survey that involved 215 working journalists from Ulaanbaatar and 21 provinces available. Report presented to the seminar and posted at Globe International website. The results show defamatory legislation is used as censorship and it encourages self-censorship among journalists. **English summary is in the Project Activities**

Objective 2: Educate the journalists on avoiding the legal violations and defending them from the legal problems

Result:

The journalists educated through 200 copies of twenty-minute audio handbooks for journalists on four topics: Access to public information, demand to repeal confidential information sources, attacks and defamatory legislation educates journalists on legal safety and types of editorial and political censorship and provides lawyer's practical tips on how journalists to act, if they have the problems in exercising their professional rights. Copies of audio handbook distributed to journalists of 8 local radio stations-Globe International partners through gogo-share.

Objective 3: Reinforcing discussions on how defamatory legislation and use of the defamation laws affect the journalists' rights'

Result:

35 participants representing media, journalists, lawyers and NGOs attended the seminar on February 9, 2010 and contributed to discussion on media freedom, defamation, censorship and a new draft version of media freedom law.

3. Project Activities

3.1 Studies

3.1.1 Nation-wide study on civil and criminal defamation cases heard by the courts in 2008

Study on defamation cases in 2008 carried out by a media lawyer G. Davaakhuu. The purpose of the study was to evaluate the use of defamation laws of Mongolia.

In 2008, the Mongolian Courts heard 45 civil and defamation cases.

Criminal Defamation

In 2007, there were no criminal defamation cases brought to the courts. In 2008, the Mongolian courts reviewed five criminal defamation cases. These cases were brought by 6 plaintiffs and all the cases were against media and journalists, particularly against tabloid newspapers. 62.5% of plaintiffs were politicians, authorities and public officials. In three criminal defamation cases, media lost and in two they won. Fortunately, there were no arrest and imprisonment penalty, but in lost cases, maximum award was 5, 508,000 MNT (app. 3, 780US\$) which high amount for a journalist earning app. 200US\$ per month.

Civil Defamation

In total, 39 civil defamation cases were heard by the Mongolian courts and 21 were against media and journalists. 16 civil defamation cases heard by Ulaanbaatar district courts and 5 –by the provincial courts of Ovorkhangai, Khuvsgul and Khentii. More than half, precisely 65% of claimants were politicians, authorities and public officials and others were businessmen (10%), ordinary citizens (20%) and NGOs (5%)

In 71.4% civil defamation cases, the media and journalists lost and only in 9.5%, they won. The media and plaintiffs reconciled in the remaining portion.

The highest fine demand for civil defamation cases was 200, 000, 000 MNT (app. 140, 000US\$) and award was 1,000,000 MNT and the minimum award was 500,000MNT (app. 340US\$)

Results of studies in 1999-2008 show defamation cases increase in election years, respectively in 2000, 2004 and 2008. But in non-election 2002, the courts heard the highest number of the defamation cases that reached 44.

Years	Civil cases		Criminal cases	
	Total	Against media	Total	Against media
1999	30		3	
2000	39			
2001	31	11	4	
2002	44	37	2	2
2003	28	18	1	1
2004	40	40	1	1
2005	29	25	1	1
2006	36	31	3	3
2007	33	33		
2008	39	25	5	5
Total	349	220	20	13

Conclusion

Concerning civil defamation cases, 64.1% of the total cases initiated against media which is decrease by 8 compare to 2007, but criminal defamation cases reached five in 2008 while in 2007 were no such ones.

The number of defamation cases initiated by public figures has increased in 2008. It evidences that in Mongolia, politicians, authorities and public officials use the criminal and civil

defamation legislation to censor critics or resolve disputes. Awards to media and journalists are high that serious treat to sustainability of financially poor media outlets.

In most countries, the burden of protecting an individual's reputation lies with the individuals themselves. International standards provide that: "It is not necessary to consider libel as a criminal offence since this leads to limitations of the freedom of expression."

Please see the full report in Mongolian. Attachment 2

3.1.2 Nation-wide survey among journalists on censorship

The survey conducted by a Kh.Narantsetseg, a researcher. The survey involved 215 journalists from Ulaanbaatar and provinces working in the news and covering politics, social and economic issues. 67.4 % of respondents are female and 32.6% are male journalists. It says that female journalists dominate in the critical and investigative journalism. 65.1% of journalists work in Ulaanbaatar and 34.9% in the provincial media.

Working experiences of journalists:

- Up to 3 years of working experiences 31.2%
- Up to 5 years 26.0%
- Up to 10 years 23.7%
- Over 10 years 19.1%

Type of media where the responds work:

- Print media 53.9%
- Broadcast media 45.6%
- Freelance 0.5%

The survey did not apply for the on-line media journalists.

Ages of respondents:

- Up to 25 years old 25.6%
- 25-30 years old 37.2%
- 30-35 years old 15.8%
- 35-45 years old 12.1%
- Over 45 years old 67.4%

60.4% of the total respondents or 130 journalists faced attacks and affected by the defamation cases.

Types of attacks:

- Threats 50.8%
- Pressures 40%
- Affected by defamation cases 23%

Content of threats:

- Bring the case to the court 42.3%
- Make fired from job 33.1%
- Make imprisoned 7.7%
- Will kill 6.9
- Will beat 5.4%
- Attack your family member 5.4%

Type of pressure

- Accusing through telephone calls 70.8%
- Demand to repeal information source 36.9%
- Accusing journalist through individual meeting 33.1%
- Demanded to come to their offices 16.1%
- Assaults 3.8%

Defamation cases

14% of respondents said they had court cases on defamation. Maximum award was 100,000 mln. MNT and fine paid by the media averaged between 300,000 MNT and 2 mln. MNT. In 77% of the cases journalists received claims after their materials released, in 14%- during the information gathering and in 9%- during the production or publication processes.

Complaints/Claimants

69.2% of the complaints were authorities, 21.4%- businessmen/private companies and 9.4% were others, i.e. stars, international organizations, NGOs etc.

Journalists as witnesses

29 journalists were called by the police (in 26 cases) and intelligence service (in 3 cases) as witnesses.

Editorial censorship

66% of journalists responded that there is editorial censorship. Editorial censorship occurs through:

- Censor the content of their materials 57.7%
- Bans critical materials about the ad-s suppliers 42.9%
- Media leaders refuse to publish or air 38.7%
- Media leaders demand to cut some parts of the material 28.9%
- Media leaders do not publish their own stories 22.5%
- Imposed penalty, for example reduce salaries 7.7%

Self-censorship

48.8% or nearly half of questioned journalists said they are self-censored. The reasons of their fear are:

- From being fired 29.5%
- From being their salaries reduced 9.5%
- From being attacked and insulted 51.4%
- From physical attacks/assaults 21.9%
- From being family members pressured 22.8%
- From being called by the courts 40.9%
- From being imprisoned 13.3%

Conclusion

1. One of six journalists faced complains of people that media critical materials defamed their honor. Most of complaints threatened, attacked and pressured the journalists. Majority of the complaints frightened journalists by civil and criminal defamatory legislation
2. Nearly 20% of respondents received threat messages to kill, beat and attack their family members. The respondents reported on five cases of assaults. It evidences that the works of journalists are going to be harsh in Mongolia
3. 81% of complaints are authorities and people in power, so they use the civil and criminal defamation laws as censorship tool
4. One of three journalists were demanded to repeal their information sources and one of two journalists called by the police and intelligence service as witnesses.
5. The survey results evindece that editorial censorship is very high in the Mongolian media.
6. The survey results also show that jjournalists are prohibited to criticize the private companies which supply advertising, so it evidences economic censorship is high in Mongolian media .
7. The survey results show that journalists are highly self-censored. They fear from attacks, insults, imprisoned and fired from their jobs.
8. The survey results show that the public's right to access uncensored true information is violated
9. The critical and investigative journalism in Mongolia faces many difficulties and problems

So the research team reccomends to carry out the following activities in elimination of censorship in Mongolia

- To repeal the criminal defamatory legislation
- To provide the legal guarantee of the editorial independence
- To enact the laws protecting the journalistic confidential sources and banning to call the journalists as witnesses
- To strengthen the collaboration of media, journalists and NGOs to monitor the implementation of the Media Freedom Law that bans the censorship
- The strengthen the works to protect the professional rights of journalists
- To gain the public support by monitoring and dessiminating information on the violations of professional rights of journalists

Please see the full report in Mongolian. Attachment 3

3.2 Seminar : Defamation and Censorship

On February 9, 2010, we organized a seminar “Defamation and Censorship” at Puma Imperial Hotel. In total, 35 participants representing media, journalists, lawyers and NGOs attended the seminar.

The organizers presented two reports on the nation-wide surveys’

- 1) Report of survey among 215 journalists
- 2) Report of analysis on defamation cases heard by the Mongolian courts in 2008.

Seminar participants discussed issues of editorial and economic censorship, and self-censorship. They also raised journalism ethical issues and media self-regulation. The survey results show that editorial and self-censorship are very high among journalists. Participants stressed that protection of journalists professional rights high importance.

Mr. G.Erdenebat, legal adviser to the Mongolian President answered questions of journalists concerning a new draft law on Media Freedom which is supposed to provide more freedom to media and increase its responsibility. Journalists expressed their concerns that they rights would be restricted by intention making media more responsible. They agreed media self-regulation is important to safeguard independence, but it should not be legally compulsory.

For program and list of participants, please see Attachment 4.1-4.2

3.3 Audio handbook for journalists “If You Face Legal Problems”

The twenty-minute audio handbook for journalists on four topics: Access to public information, demand to repeal confidential information sources, attacks and defamatory legislation educates journalists on legal safety and types of editorial and political censorship and provides lawyer’s practical tips on how journalists to act, if they have the problems in exercising their professional rights. The audio handbook designed for self-learning and produced as series of case-based mini-stories with lawyer’s commentary.

Audio handbook also featured at <http://share.gogo.mn/wxQEAPbhT68781266612653/Setguulchtand erhzuin berhsheel tulgarval ok.mp3are> and distributed online to journalists of 8 local radio stations-Globe International partners.

The audio handbook was produced by Globe International with assistance of Gal production. Ch.Munkhzul, scriptwriter, Ts.Otgonbaatar, producer and four students of Arts and Culture University with assistance of G.Davaakhuu, lawyer worked on the audio production. Audio handbook was resented at the seminar by Ch.Munkzul.

10 copies of audio handbook attached to this report. Attachment 5

4. Project Performance

Globe International made a detailed work schedule for the project activities. All the activities except for court study carried out in accordance with the schedule. While executing data

collection of the court studies, we faced some bureaucracies of archives that affected the project period. We had to prolong the project for a month. Bayankhongor aimag court has not been involved to the study because they refused to send info on defamation cases reviewed in the aimag.

Journalists' survey methodology was developed by the team and questionnaires sent to provincial journalists representatives of Globe International in the aimag.

Content for audio handbook was developed by the team and produced by a production team consisted scriptwriter, producer and talents in assistance of Gal Productions.

Please see the work schedule. Attachment 6

5. Project Publicity

The project publicized through media outlets and Globe International web site. Seven television stations, Odriin Sonin (Daily News, the biggest daily, MONTSAME, news agency covered the seminar and reported on the censorship and defamation issues.

Television stations:

- Mongolian National Public Television
- UBS
- Channel 25
- SBN
- C1
- Eagle (EBC)
- Mongol TV

The US Embassy grants advertised through invitation, audio handbook covers and Globe International web site. Reports on the seminar also featured on the Globe International web site and www.olloo.mn, www.news.mn, national news portals. Links are below:

<http://www.globeinter.org.mn/?cmd=Record&menuid=357> монгол

<http://www.globeinter.org.mn/?cmd=Record&menuid=358> англи

<http://mongolnews.mn/i/1271>

<http://www.olloo.mn/modules.php?name=News&file=article&sid=1167567>

Please see a copy of Odriin Sonin article and copy of MONTSAME News Bulletin. Attachment 7.1-7.2

Report by Kh.Naranjargal, Globe International President and CEO.