



Globe International Center

MEDIA

FREEDOM

REPORT

2015

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By Globe International Center

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PREFACE

We are pleased to present you the 2016 Media Freedom Report. Taking this opportunity, we would like to express our deepest gratitude to the UNESCO Beijing Office for supporting the publication of this report.

In 2015, a total of 493 media outlets operated in Mongolia in accordance with the Press Institute monitoring.

In the last two years the number of online media has increased from two to three times. Nowadays eight newspapers can be read from www.imedia.mn; 34 newspapers from www.sonin.mn and tv.oair.mn broadcast 39 TV channels.

The report is aimed at providing an overview of media freedom in Mongolia by analyzing media environment for the Mongolian journalists to exercise their professional rights in order to fulfill their duties and responsibilities to serve the public and challenges they face in it.

In 2015, Mongolia is in the 60th place out of 180 world countries and it is still the country with notable problems of press freedom. Mongolia still remains as a country with partial press freedom in accordance with the Freedom House.

The report notes some changes in the Media Law of the country in 2015, particularly the Parliament enacted the Law on Mongolian Language and the Law on Culture.

In 2015 the significant changes were made in the Criminal Law and Election Law. Election Law provides ensuring public participation in the monitoring the election coverage of the broadcast media by a provision to involve "professional NGOs". However, it is regretful that regulatory body will cooperate with "police and election organization" in monitoring. Moreover, the operation of the media outlets will be terminated or stopped in the case of violations of the rules, based on the conclusion of the government body and the same sanctions applies, if "media, the media, online space and messages used". We concern these provisions would encourage the government censorship.

On 4 April 2015, the Parliament passed the new Criminal Law and it repealed the previous libel and insult, and it will be a part of the Administrative Code which was enacted the same day. These laws will be effective from September 1, 2016. However, provision on the libel and false information still remain in the Article 14.8.1 of the Criminal Law imposes penalties of the fine and imprisonment of one month to one year will be imposed "in case, if reputations of the political parties, coalitions and candidates damaged and false information distributed",

Mongolia will hold the Parliamentary and local elections in 2016.

In 2015, the Mongolian courts heard a total of 14 criminal defamation cases and five of the cases are against media. It looks a few and the number decreased by four. In 2014-2015, the courts heard 14 criminal cases and if it is compared, for example, to a

total of 10 criminal cases heard by the courts in three years of 2011-2013, the number is constantly increasing.

On May 5, 2015, Mongolia went through UPR review and 8 countries issued the recommendations on the freedoms of opinion and expression. The recommendations include to harmonize the national Freedom of expression legislation with the international standards, provide the legal protection of the journalistic confidential sources and whistle blowers, decriminalize defamation, ensure independence of the regulatory body and ensure safety of the journalists and human rights activists in exercising their duties.

We hope the Mongolian government will fulfill its duty before the international community.

After many years of debate, a significant step has been taken by committed media NGOs to establish a media self-regulatory mechanism. The first regulatory body-Media Council was founded in 2015 and has made the historic decisions on the complaints received from the public. It is surely that this effective mechanism will take its great contributions to strengthening free and independent media in Mongolia and we express our sincere gratitude to the Deutsche Welle Akademie for their role played in developing the professional Media Council.

In 2015, Globe International Center, Confederation of Mongolian Journalists, Press Institute and Transparency Foundation finalized a Media Development Assessment Report that used the UNESCO Media Development Indicators (MDIs). MDIs were endorsed in 2008 by the UNESCO's International Program for the Development of Communication (IPDC) through a broad international consultation. The first Mongolia report gives a comprehensive overview of the current media environment and analysis based on MDIs 50 main indicators and 194 sub-indicators¹, which includes a system of regulation conducive to freedom of expression, pluralism and diversity of the media; a system of the legal environment of broadcast and online media; a climate of self-regulation and media ethics, Journalism education and infrastructural capacity.

It is concerned that number of violations of the professional rights of journalists has increased. Globe International Center has registered 78 cases of violations connected to 42 media outlets. 80 percent of the violations are registered in Ulaanbaatar and 20 percent in the provinces. 70 percent of the violators are politicians, high authorities and public officials.

In 2015, the Mongolian public was shocked by an enigmatic death of a famous Mongolian female journalist L.Bolormaa who was a founder of the Media for Development, NGO and Mining Journal. Her contribution to the development of investigative journalism in Mongolian will be remembered forever in its history. The Mongolian public and her peers are hoping and waiting that Mongolian police will thoroughly and carefully investigate the case and truth will be informed.

The first part of the present report introduces you with free expression legal framework, particularly guarantees and restrictions, and we highlight free expression violations in 2015.

Khaskhuu Naranjargal, Head of Globe International Center

¹ The UNESCO MDI available at <http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>

ONE.

MEDIA LEGAL ENVIRONMENT

1.1. Guarantees of Freedom of Expression

Constitution and International laws and standards

Article 16 of the Chapter on Human Rights and Freedoms of the Constitution of Mongolia guaranteed that “The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms:

16.16 Freedom of thought, opinion, expression, speech, press and peaceful assembly.

16.17 The right to seek and receive information except that which the state and its bodies are legally bound to protect as secret.

Mongolia became a member of the United Nations in 1961 and recognized the Universal Declaration of Human Rights. In 1974, Mongolia ratified the International Covenant on Civil and Political Rights (ICCPR) and joined the Organization for Security and Co-operation in Europe (OSCE) in 2012. As such, Mongolia is legally bound to protect the freedom of expression in accordance with international laws and standards. In conformity with Article 10 of the Constitution, the above mentioned documents are effective as domestic laws. This is formally recognized in part 10.3 of Article 10 of the Constitution which stated that “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” and was published in Turiin Medeelel (State Gazette) in 2004.

Article 19 of the Universal Declaration of Human Rights stated that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 19 of the International Covenant on Civil and Political Rights stated that “Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Part 16.17 of Article 16 of the Constitution of Mongolia stated that “In order to protect the human rights, dignity and reputation of persons and to ensure national defense, security and public order, the information which is not subject to disclosure must be classified and protected by law.” This article indicates the purpose and reason

that can put restriction on freedom of expression. Part 3.3 of Article 3 of the Criminal Code of Mongolia states that “No one may be subjected to criminal liability for his/her opinion and beliefs”. Even though there are opinions and beliefs, but there is no means to express them, this right cannot be fully implemented.

The restrictions on freedom of expression can only be accepted if they are based on the concept of the Constitution and international instruments and when they pass the following three part tests:

First. Only prescribed by law

Second. Have a legitimate aim

Third. Truly necessary and proportionate

Even though restrictions beyond these grounds shall not be allowed, there are still some unnecessary restrictions which violate fundamental human rights.

The UN Human Rights Committee adopted the General Comment No34 on Article 19 of ICCPR which guaranteed the right to freedom of expression, by its session 102 held from 11-29 July 2011 in Geneva. This General Comment provides a more clear interpretation and application of Article 19.

1.2. Media Freedom and Journalism Professional Activities

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

The Supreme Court of Mongolia interpreted “media tools” as definition of “informing tools mean networks of television, radio and communication, computer network, specific programs, print media and other tools” which reflected in part 3.1.5 of Article 3 of Law on Advertisement.

The Parliament passed the Law on Public Radio and Television on 27 January 2005. It created a legal ground for public television and radio which are under control and finance of public at national level.

Since then no legal regulation has been adopted to address broad programmes which is important in the media sector, protection of confidential sources and whistleblowers, fair competition, and ownership transparency.

Numerous drafts of new Media Freedom Law were developed. However the State Great Hural still did not discuss on final version and pass it.

According to the Law on the National Human Rights Commission of Mongolia passed in 2000, the Commission is an institution mandated with the promotion and protection of human rights and charged with monitoring over the implementation of the provisions on human rights and freedoms, provided in the Constitution of Mongolia, laws and international treaties of Mongolia (Article 3.1). Since its establishment in 2001, the Commission has been receiving and resolving the complaints of human rights violations.

The National Security Concept stated that the State, citizens and media shall “cooperate in developing a policy to build awareness on society to be proud of motherland, nationality and respect for national interests, ethics, rule of law and state” (3.3.3.2). It also stated that social sustainability should be ensured through the strengthening of independence and autonomy of the media and by following responsible and professional journalism and journalism ethical standards (3.3.4.3).

In 2015, the Law on the Mongolian Language was passed by the Parliament and media outlets and publishing entities are obliged to “strictly follow the grammar of the Mongolian language and standards of the Mongolian language of the modern Mongolian literature”. Article 19 imposed to determine indicators of knowledge on the Mongolian language and grammar shall be included to the exams of the professional skills of the journalists and media workers”. In accordance with the Article 21.7.9, National Council of the Language Policy of the President shall take control over implementation of adherence of the standards of the Mongolian language by media organizations.

1.3. The right to information and restrictions

Part 16.17 of Article 16 of the Constitution of Mongolia guaranteed the “right to seek and receive information”. Even though the Constitution did not include the right to impart information literally, it ensured the freedom to “seek, receive and impart” information “regardless of frontiers²” in aforementioned international human rights instruments.

The Law on Public Radio and Television (PSB Law) passed in 2005 guaranteed the rights of journalists of Mongolian National Public Radio and Television (MNB) by its Article 34.1 stated that “Workers of the Public Radio and Television shall have the right to obtain information except other information relating to secrecy of state, organization and privacy, and make it generally available”. When the Parliament passed the Law on Information Transparency and Right to Information in 2011, it not only guaranteed the media and journalists to access to information, but it also guaranteed the citizens’ right to information.

According to the article 6 of the above-mentioned Law, state organizations are obliged to disclose information related to their activities, budget, finance, procurement and service received by state and local budget. Any citizen and/or legal entity retains the right to request information in any form of media desired and officials are legally obliged to respond to freedom of information requests within seven working days at maximum, if there is inevitable need the period can be extended by 7 working days. If information is available, the citizen and legal entities must be given access immediately. Moreover, there are regulations on implementation and monitoring of the law by stating to take notes in order to monitor law implementation (Article 23) and to make the above notes to assess indicators of outcome agreement (Article 24)

The types of exemptions specified under Article 18 of the Law on Information Transparency and Right to Information are, however, very broad and include: (1) if there are well-grounded reasons that the public release of the concerned information might be detrimental to the national security and public interest of Mongolia (18.1.1), (2) if the concerned information is related to matters under

² See Article 19 (2) of ICCPR.

review by the Mongol Bank, the Financial Regulatory Commission, or by the state administrative organizations in charge of competition or specialized inspection (18.1.2), (3) if it is necessary to protect state secrets, organizations and/or individuals during the process of inquiry, investigation and prosecution (18.1.3). The Law also protects intellectual property (Article 19), protection of personal secrets (Article 20) and secrets of any organization or business entity (article 21). It is prohibited to disclose intellectual property related information without the permission by the owner (19.1). Article 17 of the Law sets forth a complaint mechanism for citizens and legal entities whose rights are violated. They can lodge a complaint to the officials in higher positions and organizations of higher instances as well as to the National Human Rights Commission and the Administrative Court.

In accordance with the Law, the Government has adopted the following two procedures: "Regulation on charges, exemption and reduced charges for information services" approved in January 2013 and "General regulation to ensure information transparency" approved in December 2013.

Article 9 of the Law on Information Transparency and Right to Information "Transparency of budget and finance" and article 10 "Transparency on procurement, purchase of goods and service by state and local budget" were abolished by enactment of the Law on Glass Account which came into effect from 1 January 2015. However, this change creates doubt regarding transparency and disclosure obligations of certain organizations or certain information.

According to the Law on Regulation of Public and Private Interests and Prevention of Conflict of Interests in Public Service, public officials must provide interests declaration. Under the Law against Corruption, they are also obliged to declare their personal as well as family assets, income and loans. As such, these kinds of information are accessible.

The Law on the Privacy of Organizations requires organizations to establish a regime of secrecy and to develop internal procedures to protect such secrets (Article 5.1). Article 6 of the Law prohibited organizations to withhold information if the information pertains to activities, products, services, techniques and technologies which affect the public health or environment, or contains information on poisonous or radioactive substances held by an organization which may cause public harm or harm the environment should its procedures on storage and protection be breached. The information also cannot be hold if it is about a crime or if it should be disclosed to the public in accordance with law.

Above provisions are general and contain no specific details. This is used as justification for rejecting journalists' access to information and state censorship against investigative journalism.

1.4. Election and media

Under the Article 14 of the Law on General Organization of Election, the Media Council shall work during the election. In accordance with Article 14.2 "The Media Council shall consist of equal representatives of professional institute of press and media, NGO and political party, coalition" and "Media Council shall control and monitor the equilibrium of election media advertisement of political party, coalition, candidate; and

shall review and make comments on complaints lodged by political party, coalition, candidate, legal entity and citizens regarding above matter and present them to the Committee” (14.3). However, this could not become an effective mechanism in previous elections. However, the mechanism could not effectively worked during the previous elections.

On 25 December 2015, the new Election Law was enacted and it integrated the regulations of the previous Parliamentary and Presidential elections. Chapter 9 regulates the election campaign. Article 68.3 specifies means and types of the election advertising including printed materials and its distribution to the voters /68.3.1/ and use of radio and television programs /68.3.6/, and use of web sites /68.3.7/. Concerning the restrictions of the printed election advertising materials, it shall not exceed three printed pages in the daily and other newspapers and the same size limitation applies to magazines /77.17/.

Article 82 includes the narrow regulations of use of radio and television. The public broadcaster shall air the election programs in accordance with schedule and equal time allocated which shall be adopted five days prior of to start of election campaign and no payments shall be charged. In accordance with new Election Law, no equal time for the individual candidates running for the Parliamentary and local elections, shall be allocated, so it applies to the political parties and coalitions participating in the election. Regarding the Presidential election an equal time shall be allocated to each candidate. Besides equal time, legal requirements are equal conditions and equal opportunities. Other radio and television stations rather than PSB, shall air the election programs basing on the agreement. A total air time of the paid programs shall not exceed 60 minutes a day. 15 minutes or up to 25 percent of the one hour duration shall be allocated for a political party, or one candidate.

The new Election law includes regulation of Internet space by its Article 83 and Article 83.3 allows to distribute the e-materials through e-mails and 83.4 obliges that names of subscribers and Party’s Election Campaign Headquarters running web sites must be necessarily mentioned.

More restrictions are imposed by Article 70 titled Prohibition of the Illegal Campaign, namely, media is prohibited:

- To distribute information libeling and insulting or false information, to any type of activities with purpose to determine political ranking by media outlets, online space and messages /70.1.6/,
- To call not to vote /70.5.7/
- To print, publish and air the songs and pictures related to religions in the election broadcast programs and materials /70.5.9/
- To libel and insult others and to disseminate false information and news of any types /70.5.13/
- To sign an agreement and pledge to release all types of information and news about any parties participating in the election, or not to release such information during election campaign /70.7/

Sanctions against media are included in various parts of the Election Law. For example,

- If the Court decision proves the bodies guilty in dissemination, publishing and airing flashy and false information on parties, coalitions and candidates, they shall reimburse the expenses spent for the campaign /70.8/.
- In the case of breach of the provision 70.1.6 by web sites, the CRC shall terminate the license for six months based on the conclusion of the government administrative organization responsible for fair competition
- Radio and televisions breached the Law shall be warned once and in the repeated cases, its operations will be stopped until the voting day by the organization which issued the license /82.19/.
- In the case of the breaches specified in this chapter, license of the broadcasters shall be terminated until six months from the day breach occurred /82.21/
- In case, if it is not possible to identify the bodies and media individuals who breached this provision, web site shall be blocked in Mongolian territory until the end of the voting by the regulatory body /83.7/
- Procedures of the election media campaign on radio and television, and monitoring shall be adopted by the Central Election Organization and Communications Regulatory Committee (CRC) in accordance with Article 82.17 of this Law. The CRC shall conduct monitoring on election advertising and it may take measures to not breaching the Law and stop the breaches in cooperation with police, election organizations and specialized non-governmental organizations /82.18/.

The involvement of the Authority for Fair Competition and Consumer Protection and the CRC which is a government body by law, encourage the government censorship and it violates the Media Freedom law which bans any type of censorship.

1.5. Defamation law

Individual's honor is protected in both the Civil and Criminal Codes of Mongolia. State, non-state, business and all kinds of organizations can redress their name, honor and reputation by using aforementioned laws.

On 4 December 2015, The Parliament enacted the new Criminal Law and repealed the general criminal defamation provisions on libel and insult and it is a part of the Administrative Law which was passed on the same day. Both laws will be effective from 1 September 2016. In accordance with Article 7.3.1 of the Administrative Law "In the case, if information defaming honor and dignity of person disclosed and distributed through media and social media, individual shall be fined in amount of MNT equal to 1000 unity and legal entities shall be fined in an amount of MNT equal to 10,000 unity. It is progressive compare to the old law, even so new Criminal Law still contains defamation provision. In accordance with Article 14.8.1, "In the case, if reputation of political parties, coalitions and candidates participating in the election defamed and clear false information disseminated, penalty of fine of MNT equal to 450-5400 unity shall be imposed and shall be imprisoned from one month to one year".

According to the Article 497 of the Civil Code “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”.

According to the Article 511 of the Civil Code “If the party responsible to distributing information damaging honor, dignity and business reputation of others fails to prove that it is true, it shall be liable to compensate the non-material damage in monetary or other form separately from the material damage”.

One problem with these civil defamation provisions is that they allow public bodies to bring defamation legal action. Another problem is the fact that the Civil Code places the onus on the person who disseminated the allegedly defamatory statement to prove that the information was “accurate” or that it was “truthful”. This poses a significant burden on the defendant and has a chilling effect on freedom of expression.

1.6. Content restrictions

A number of laws in effect in Mongolia contain content restrictions including the Law on Protection for Child Right, the Law on Prevention from Crime, Law to Control Circulation of Narcotic Drugs and Psychotropic Substances, the Law against Prostitution, the Law against Alcoholism, the Law on Combating Trafficking in Persons, and the Law on Copyright and Related Rights.

We recognize that these restrictions are made in order to protect the public interests. However, we concern that these provisions can create a condition where these restrictions can be overused due to lack of general definition in terminology and scope. This can also be harmful for journalists.

The CRC regulations “General terms and requirements on Radio and Television Broadcasting” and General terms and requirements on digital content service” were amended in 2015. Standards set in these documents target the groups serving the public and these are also external by its nature. Therefore, these regulations are administrative acts.

These regulation acts did not have any impact assessment by the Ministry of Justice and nor did register in state registration. According to the Rule for decision on administrative norms adopted by the Government resolution No. 119, “any decision unregistered in state registration considered invalid and citizen, enterprises and organizations will not be held responsible for failure of adhering such decision”. In contrast, these terms are used in controlling the content of broadcast media and news and information web sites and also utilization in terminating and invalidating licenses.

Currently there is no content regulator for print media.

As for radio and television, they are obligated to respect public interest (5.1) and at least 50 percent of the weekly programming shall be produced locally in Mongolia, or produced by Mongolians or by legal entities registered in Mongolia (5.4).

During past years, laws adopted by the State Great Hural and bills contain provisions to oblige media outlets, impose unnecessary restrictions and prohibitions which give an opportunity of increasing public organizations' censorship.

For instance, the Law on Culture was amended on 12 February 2015 and the Law will come into effect from 1st January 2016. The provision "Restrictions on operation run by public and other organizations and citizens in the frame of culture" was amended. Even the main context of this regulation associated with government policy to support national content, it could turn into restriction on media and exert pressure.

The following bodies have control over contents including the Authority for Fair Competition and Consumer Protection, Authority of Intellectual Property, Coordinating Council for Crime Prevention, police, courts, intelligence authority, General Authority for Specialized Inspection. This illustrates that there is a state censorship on media.

1.7. Other regulations

Media Ownership and Concentration

All media outlets are required to register in Mongolia and they must submit their registration application form within 10 days after their establishment. In accordance with the General Law on the State Registration, Law on the Registration of Legal Bodies, Civil Code and other relevant laws and rules, media was registered as either company or as an NGO. However, in the practice, requirements for the documents to be submitted for registration extends to such ones which should be included in the bylaws or statutes of the NGOs. It is not clear why this requirement mixes up principles of profit-making entities with non-profit-making organizations.

Radio and television broadcasting stations can only be registered after their license is granted in accordance with the Article 15.16.1 of the Law on Licensing for Business Activity. In order to apply for a license they must receive permission from their local governor. For the permission, media outlets must submit the following documents: their publication, programmed policy, frequency, structure, powers and duties of the governing body and editor-in-chief, and their financial information. In addition, they must also submit a contract signed with a printing company.

Even though the media ownership has various forms in Mongolia, the law does not clearly indicate ownership diversity. For instance, relevant laws recognize the public and private ownership, but the community ownership is not recognized at policy, legal and regulatory levels.

For the first time, a provision on "Transparency of ownership and affiliation of media outlet" was incorporated into the "Concept of National Security of Mongolia" which was adopted in 2010.

The Action Plan of the Mongolian Government for 2012-2016 adopted by the Parliament resolution No. 37 in 2012 included that "It shall disclose the ownership

and revenue of the media; enhance the independence of media organizations; and guarantee the freedom to publish.”

The Chapter 5 entitled “Ownership transparency” of the CRC regulation “General Terms and Requirements on Radio and Television Broadcasting” says “Owner of the broadcast media shall make the license transparent to the public with purpose to ensure ensuring independence, openness and ethics. Information on percentages of investors, license holders, and management, names of license holders, detailed addresses, telephone numbers, management and organizational structure of the legal entities, and citizenship of the management staffs shall be sent to the CRC by letters within the 1st quarter of each year”.

Due to lack of transparency on media ownership and concealment of sales information and customers’ rate in market, it becomes difficult to define a concentration in realistic way.

It is open to own a various media outlet in many ways including open and hidden way. Thus, it is extremely hard to identify a real owner of media outlet as information on ownership and investor given by entities is questionable. Media ownership concentration in Mongolia seems to go further. Specifically a media concentration among big business and political group is surging or they are selling a media outlet to one another.

Part 21.1.3 of Article 21 of the Law on Investment passed in 2013 incorporated a new regulation. It stated that “a permission is required if a foreign state-owned legal entity happen to hold 33% or above of total share issued by Mongolian legal entity operating in the field of media, information and communication”.

The Law on Media Freedom prohibits the state ownership, but in reality, a number of media outlets are established by local governments in violation of the law. The state owned all media outlets operate mainly to promote a policy of that state organization.

Broadcasting

Mongolia has no separate legislation on broadcasting.

In conformity with international legal standards, a competent regulating body of media sector shall be independent from government and shall regulate a frequency spectrum. Under the Article 8 of the Law on Telecommunications, the Communications Regulatory Committee was established in 1996. The Law on Telecommunications does not specifically and explicitly guarantee the independence of the Communications Regulatory Committee. In contrast, Article 4 of the Law on Radio Waves stated that radio waves are State property and the Government solely reserves the right to allocate radio frequencies, while Article 5.2 of the Law refers to the Committee as “the government implementing body” suggesting that it is not intended to be independent.

The above legal statement restricts the opportunities of allocation and regulation of frequencies of waves in independent manner.

Internet

There is no state regulation to restrict internet users in Mongolia to access any domestic and foreign websites and to join a social media. Until 2011, there was not any requirement for anyone to create and operate website or to open up their own blogs to get registered or licensed by the state. In accordance with Article 15.16 of the Law on Licensing for Business Activity amended in 2010, it stated about “issuing a license for content service”. According to the regulation “General Requirement for Regulation on Digital Content Service”, “content” means any product that transfers characters, signals, texts, pictures, graphics, sounds, tones, moving images and other types of information that is being transmitted through a communications network into electronic form. It also says that e-mail, bulk and spam, communication between individuals (for instance, via telephone, fax, IP etc..) shall not be considered as content.

The Mongolian Government adopted a resolution No1 on “Unified System of Comments in Websites” during its Cabinet Meeting on 5 January 2013, neither without prior public consultation nor with a Parliamentary decision. As per this resolution, the CRC was assigned to develop a regulatory procedure on requirements for news websites and issuing domain names. The National Data Center will ensure the technical reliability of this Unified System of Comments and the General Authority for State Registration will register the information of users who post comments on websites based on their civil data and the database of mobile phone users. The resolution on restricting the right to online anonymity is still in effect.

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

However, CRC regulations have been imposing restrictions. “General Condition and Requirement for Regulation on Digital Content Service” states that “Service provider of news and information website operating in Mongolia shall register in the Communications Regulatory Committee (3.4)”.

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

- It is obligatory to use filtering software;
- IP address of the customers shall be publicly visible under the user-generated content;
- Provide customers to login with any username and email address and leave comments;
- Keep that login in relation to those comments for at least 6 months.

In the case of violations of the above mentioned requirements by any website providers, the CRC has the right to restrict their access from Mongolia.

Based on official decision and conclusion on violation of laws by websites/ internet service providers received from relevant authorities, the CRC has the right to demand them to eliminate such violations within 24 hours and to immediately restrict their website access without giving a prior notice when necessary. Depending on the nature of violations, the CRC reserves the right to hold violators economic responsibility or commission them timely task; or to inform relevant organizations to impose administrative accountability on them; to notify them to terminate or cancel their licenses, or to cancel the licenses.

Self-Regulatory Body

After long debates among media and journalistic communities, the first self-regulatory body Media Council was established and officially registered on 28 January 2015. It is managed by 15 members of the Board and it has two Committees: Ethical Committee on Radio and TV and Ethical Committee on Printed and Online Media each consists of 15 members. In 2015, the Committees reviewed a total of 10 complaints related to 19 media outlets about breaching the Code of Media Ethics.

The Media Council adopted the “Principles for Journalists” on 14 April 2015.

Confidential Source of Journalists

Mongolia has no law protecting the confidentiality of sources for non-public media employees. The 2005 Law on Public Radio and Television guarantees protection for non-disclosure of sources and information only for journalists from the Mongolian National Broadcaster (Article 34).

In accordance with the ethical principle No 8 of the Code of Media Ethics, journalists have the ethical duty to protect their confidential sources.

TWO. VIOLATIONS OF FREEDOM OF EXPRESSION IN 2015

Globe International Center has been monitoring violations of freedom of expression and journalists' professional rights since October 2005. Up to January 2016, we have registered **456** violations of free expression in total.

Violations of journalists' rights

Types of violation	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Assaults	3	3	6	-	-	1	5	-	4	5	27
Threats/pressure/insults, including to family members	16	7	23	13	10	8	5	6	9	12	109
Denial of information / violation to obtain and disseminate information	8	10	13	2	-	7	7	8	11	6	72
Damage/confiscation of equipment	3	3	2	-	2	2	4	2	2	4	24
Court, police and other pressure and force by institutions/civil defamation	2	8	5	3	5	3	5	6	8	17	62
Demands to reveal information source	3	1	5	1	6	3	4	11	9	10	53
Censorship of publications/bans or attempts to ban program broadcast and all types of censorship	2	1	3	1	2	3	9	9	4	11	45
Criminal defamation/detention/arrest	4	4	2	0	5	6	6	11	10	12	60
Dead	-	-	-	-	-	-	-	1	2	1	4
Total	41	37	59	20	30	33	45	54	59	78	456

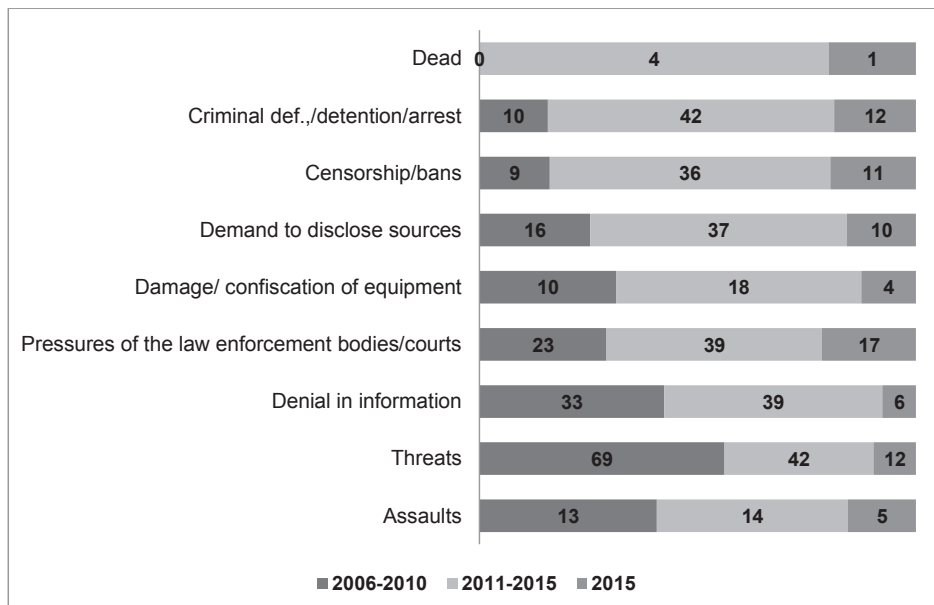
In 2015, GIC registered 78 violations affecting professional work involving 42 journalists and media outlets. If any right is violated, it will affect other rights. Mongolian journalists are highly self-censoring and fear further possible reprisals, attacks and assaults. Bearing this in mind, we were not able to include all cases in this report.

Among the registered cases, 28.6% of violations involved newspapers, 34.3% – TV stations, 25.7% – websites and 11.4% involved individuals. Most of them (80 per cent) occurred in Ulaanbaatar and only 20 per cent were registered in the provinces.

75 per cent of those who violated freedom of expression and journalists’ rights were authorities, high-ranking public officials or government organizations.

Types of free expression violations in 2015 by per cent:

- Assaults - 5 (6,4%)
- Threats/pressure/insults, including to family members - 12 (15,4%)
- Denial of information / violation to obtain and disseminate information – 6 (7,7%)
- Damage/confiscation of equipment – 4 (5,1%)
- Court, police and other pressure and force by institutions/civil defamation – 17 (21,8%)
- Demands to reveal information source - 10 (12,8%)
- Censorship of publications/bans or attempts to ban program broadcast – 11 (14,1%)
- Criminal defamation/detention/ arrest - 12 (15,4%)
- Dead – 1 (1,3%)



Globe International Center highlights the following violations of journalists` professional rights in 2015

- Kh.Battulga, Parliament Member launched a civil lawsuit against two newspapers Odiriin Sonin and Undesnii Shuudan following articles published in 2015. He demanded Odiriin Sonin newspaper to pay one billion Mongolian tugrik (approx. 500,000 USD) and Undesnii Shuudan to pay 960 million Mongolian tugrik (approx. 480,000 USD) in compensation. GIC protested by stating: "Even though Kh. Battulga has the right to protect his honor and reputation, his monetary demand is an act of economic censorship and these large sums of money could result in the closure of the media outlets. Moreover, budget and project funds are public interest issues and the media has a duty to investigate, inform, and criticize these issues and to bring them to the public's attention."
- D.Dorligjav, Justice Minister launched criminal defamation charges against two young website journalists. The cases were being investigated by the General Intelligence Agency (GIA). Basing on the first testimony as witnesses, GIA officers then questioned the journalists as suspects. Whistleblower was former Justice Minister Kh.Temuujin who distributed bank transfer document's copy on 4 mln. USD via social media with some note. The journalists based on the above document and public comments & tweets raised a hypothesis that current Justice Minister D.Dorligjav might be connected to the issue. Globe International Center considers, the journalists conducted their professional duty by informing public interest matter and sent protest letters to the Justice Minister and GIA Head.
- S.Battulga, a female journalist from info.mn website has faced criminal defamation charges due to publishing a statement issued by Noyod Group LLC on the website. She was arrested on July 9, 2015 when the trial was scheduled. The trial was postponed until July 27, 2015 as one of the attorneys failed to attend the trial. The Judge has ordered the arrest of the journalist together with four convicted following the request of the victim's attorney until next trial. S.Battulga was detained for the second time concerning the criminal case. Previously, on July 17 last year, when the first hearing trial proceeding was scheduled, she was imprisoned for 32 hours. The first hearing in the case was held on December 12, 2014. The journalist was found guilty of insult and ordered to pay compensation of 21 mln. MNT (approx.US\$11000). Then the appellate court transferred the case to the first instance court.
- S.Nergui, Representative of Citizens Representative Khural of Nalaikh District filed criminal defamation case against D.Batchimeg, journalist from Nalaikhiin Amidral newspaper. The journalist had published an interview with O.Ganbold, Democratic Party Group head. However the criminal case was dismissed. Then S.Nergui launched a civil lawsuit against the journalist and demanded 200 million tugrugs in compensation. After

the aforementioned interview was published, the journalist has been threatened by an unknown caller. Her vehicle's tire was burst two times. The first instance court found the journalist guilty of defamation, ordered to publish a retraction and pay 500.000 tugrugs in compensation.

- Kh.Zoljargal, former Secretary of Ministry of Industry and Agriculture filed lawsuits against Ugluunii Sonin newspaper and two websites: ulstur.mn, dorgio.mn. He demanded from the newspaper 5 million tugrugs, and from websites 3 million tugrugs respectively. The first instance court ordered the newspaper to publish a retraction and pay 5 million tugrugs. Court dismissed the case against the websites due to reconciliation between the litigants.
- B.Shinegerel, Governor of Bayan soum of Central aimag filed criminal defamation lawsuit against TV5 station and demanded to pay 10 million tugrugs in compensation. TV5 station reported from Bayan soum's Citizens Representative Khural meeting and aired the reportage on news & current affairs programme 'Tsag'. The station reported critical positions of the meeting's representatives. April 2015's first instance civil court found the newspaper guilty of insult and ordered to air denial. But the monetary demand was dismissed.

THREE. SURVEY ON CIVIL AND CRIMINAL DEFAMATION CASES

Globe International Center has conducted research and analysis on court decisions relating to civil claims of honor, reputation, business reputation, and criminal cases of libel and defamation in 2015. Furthermore, the research looks into the use of Civil and Criminal Codes by public authorities and officials. The research employs data available at judicial website www.shuukh.mn.

Provisions 21, 27, 497, 511 of Civil Code protect the name, honor, reputation and business reputation of the person and remedy for harm. Criminal Code in provisions 110 and 111, defines a crime of dissemination of libel and insult defaming the persons.

Journalists and media organizations were accused of inflicting harm on honor, reputation and business reputation of the person in 10 cases out of 37 civil lawsuits heard by court. They were accused of libel and defamation in five criminal cases out of 14 in 2015. Politicians, high-ranking public officials and public bodies made 66.7% of plaintiffs in 2015. Courts found journalists and media organizations guilty in 6 civil cases and 4 criminal cases.

Maximum amount of damage claimed for harmed honor, reputation and business reputation was 200 million tugrugs and maximum amount awarded by court was 5 million tugrugs which is 9 times less than in 2014. (in 2014 the highest

amount awarded by court was 45 million tugrugs.) Most civil cases were dismissed because of reconciliation agreement between defendants and claimants.

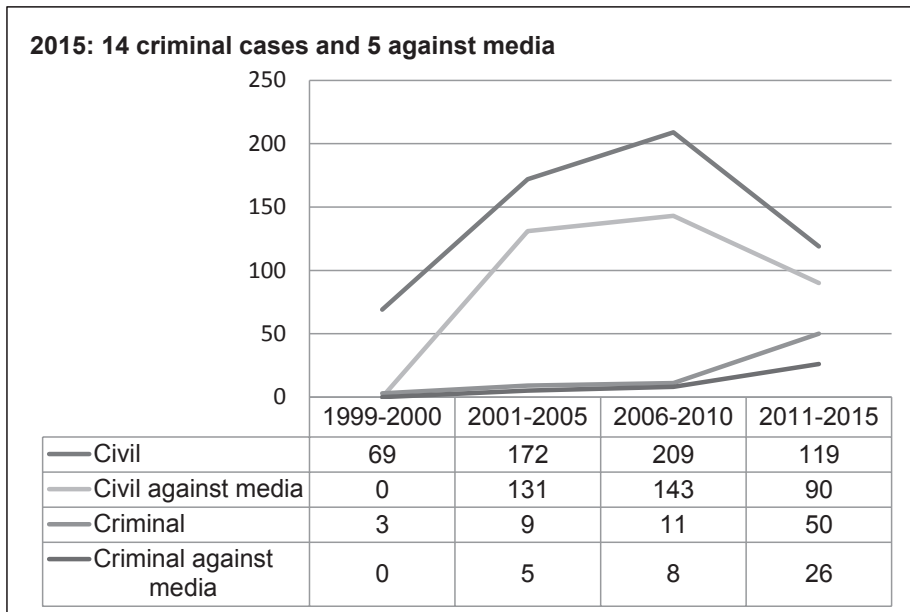
As to criminal penalties, fine amounting to 9 792 000 tugrugs (equaling to minimum wages increased by 51 times) was the highest amount of fine. In 2015, criminal penalty included 3 months and 1 day of detention in accordance with provision 111.2 of the Criminal Code; 22 days of detention and 4 200 000 tugrugs of fine for a journalist.

In 1999-2015, **54.3** percent out of total **738** civil and criminal defamation cases were filed against media and journalists.

Comparative data on the trials of defamation cases

Years	Civil		Criminal	
	Total	Against media	Total	Against media
1999	30	-	3	-
2000	39	-	-	-
2001	31	11	4	-
2002	44	37	2	2
2003	28	18	1	1
2004	40	40	1	1
2005	29	25	1	1
2006	36	31	3	3
2007	33	33	-	-
2008	39	25	5	5
2009	44	17	1	-
2010	67	37	2	-
2011	43	23	7	3
2012	43	20	8	4
2013	37	17	9	3
2014	45	20	12	9
2015	37	10	14	5
Total	628	354	59	32

It can be seen that number of criminal cases filed against journalists dramatically increased in the last 5 years.



ANNEX

Recommendations on the freedoms of opinion and expression delivered during Mongolia's human rights review at the 22nd Session of the UN Human Rights Council's

Universal Periodic Review (UPR) in Geneva on May 5, 2015

5.131.	Switzerland	Harmonise its national legislation regarding freedom of expression with the International Covenant on Civil and Political Rights, and ensure the independence of the Regulations Commission of Communications
5.132.	United States of America	Ensure that laws and regulations related to freedom of expression fully comply with Mongolia's obligations under the ICCPR and consider decriminalizing defamation
5.133.	France	Guarantee freedom of expression, including in the Internet
5.134.	Germany	Ensure full respect of human rights, including the right to privacy and the right to freedom of expression, in all aspects of internet regulation, and adherence of any restrictions of those rights to the principles of legality, necessity and proportionality
5.135.	Estonia	Ensure that journalists, media workers as well as civil society activists are able to practice their activities freely without any fear for punishment in accordance with international standards
5.136.	Czech Republic	Decriminalize defamation and put in place safeguards ensuring that criticism of or reporting on the activities of state and regional authorities do not lead to persecution or harassment
5.137.	Ireland	Decriminalise defamation and place it under the civil code in accordance with international human rights standards